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NUCLEAR REGULATORY COMMISSION

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[NRC–2011–0246]

Retrospective Analysis Under Executive Order 13579

AGENCY: Nuclear Regulatory Commission.

ACTION: Final plan for retrospective analysis of existing rules.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is making available its final Plan for the retrospective analysis of its existing rules. The final Plan describes the processes and activities that the NRC uses to determine whether any of its regulations should be modified, streamlined, expanded, or repealed. This action is part of the NRC's voluntary implementation of Executive Order (E.O.) 13579, "Regulation and Independent Regulatory Agencies," issued by the President on July 11, 2011.

DATES: The final Plan is effective February 24, 2014.

ADDRESSES: Please refer to Docket ID NRC–2011–0246 when contacting the NRC about the availability of information for this final Plan. You may access publicly-available information and comment submittals related to this final Plan by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0246. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; 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 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, at 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The ADAMS Accession No for the "Final Plan for Retrospective Analysis of Existing Rules" is ML14002A441.
- *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.
- *NRC's Open Government Web page:* Go to *http://www.nrc.gov/public-involve/open.html* under the tabs entitled "Selected NRC Information Resources" and "Rulemaking."
- *NRC's Plans, Budget, and Performance Web page:* Go to *http://www.nrc.gov/about-nrc/plans-performance.html* and select "NRC's Plan for Retrospective Analysis of Existing Rules."

FOR FURTHER INFORMATION CONTACT: Cindy Bladey, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–492–3667 or email: *Cindy.Bladey@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On January 18, 2011, President Obama issued E.O. 13563, "Improving Regulation and Regulatory Review."[1] Executive Order 13563 directs Federal agencies to develop and submit a preliminary plan "under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives." Executive Order 13563 did not, however, apply to independent regulatory agencies. Subsequently, on July 11, 2011, the President issued E.O. 13579,[2] which recommends that independent regulatory agencies also develop retrospective plans similar to those required of other agencies under E.O. 13563. In the spirit of cooperation, on November 16, 2011 (76 FR 70913), in response to E.O. 13579, the NRC made available its initial Plan. A draft Plan was published on November 23, 2012 (77 FR 70123), for a 60-day public comment period that ended on February 6, 2013. After consideration of its processes and the public comments received, the NRC is now publishing its final Plan.

II. Public Comments on the Draft Plan

The NRC received eight comment letters on the draft Plan. The commenters included State organizations, licensees, industry organizations, and individuals. The NRC staff determined that the comment letters covered six issues. The following paragraphs include a summary of the comments received under each issue and the NRC's responses to the comments.

Issue 1: Final Plan Should Include a Section Requiring Review of Existing Non-Power Reactor (NPR) Regulations

Comment: The University of Florida submitted a comment requesting that the NRC include a section in the final Plan that would require the review of existing requirements for NPRs. The University of Florida stated that the NPR community is overburdened by regulations that are marginal to safety and that the NPR community is ruled by NUREGs in a manner that exceeds the statutory constraints of Section 104(c) of the Atomic Energy Act of 1954, as amended (AEA).

Response: The NRC disagrees with the comment. While the NRC understands

[1] *See http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf.*

[2] *See http://www.gpo.gov/fdsys/pkg/FR-2011-07-14/pdf/2011–17953.pdf.*

the NPR community's concern regarding compliance with Section 104(c) of the AEA, the NRC believes that the same principles of good regulation apply to NPR licensees and power reactor licensees alike. The NRC conducts extensive public outreach and a thorough legal review in order to ensure compliance with all sections of the AEA when issuing regulations or other regulatory actions involving NPRs. The NRC's regulations that apply to NPR licensees must first meet the standard of providing reasonable assurance of protecting the public health and safety. If that standard can be met with regulations that impose a lesser burden on NPR licensees, stakeholders are encouraged to communicate their ideas to the NRC. In addition, the NRC issues guidance materials (Regulatory Guides, NUREGs, etc.) to communicate potential means by which licensees may comply with the regulations. Those guidance materials are not regulations, and licensees are permitted to administer their programs as they see fit, provided licensees can produce a sufficient basis illustrating how their program administration follows the NRC's regulations. The final Plan was not revised as a result of this comment.

Issue 2: Cumulative Effects of Regulation (CER)

Comment: The Nuclear Energy Institute (NEI) submitted a comment on the draft Plan that suggested "the intent of the retrospective analysis could be met through addressing the cumulative effects of NRC regulatory actions, rulemaking and other NRC regulatory processes resulting in greater benefit in safety and resource management." The NEI also asserted that broadening the scope of applicable processes beyond rulemaking to other actions such as orders, generic guidance, and information requests would result in more meaningful improvements.

Response: The NRC agrees that the effort to address CER does contribute, in concert with the other NRC initiatives described in the draft Plan, to the intent of the retrospective analysis. The NRC also notes that SECY–12–0137, "Implementation of the Cumulative Effects of Regulation Process Changes," dated October 5, 2012 (ADAMS Accession No. ML12223A162), provided the Commission with an update on the status of implementing CER and feedback obtained during a May 2012 public meeting. In response, the Commission issued the staff requirements memorandum (SRM) to SECY–12–0137 (ADAMS Accession No. ML13071A635). Among other items, the SRM directed:

> Any expansion of the consideration of the CER should be considered in the broader context of actions directed from COMGEA–12–0001/COMWDM–12–0002, "Proposed Initiative to Improve Nuclear Safety and Regulatory Efficiency."
>
> The staff should continue to develop and implement outreach tools that will allow the NRC to consider more completely the overall impacts of multiple rules, orders, generic communications, advisories, and other regulatory actions on licensees and their ability to focus effectively on items of greatest safety import.

To inform its decision-making in addressing this directive, the NRC staff will obtain public feedback through public meetings. The NRC encourages continued public interaction on the subject of CER. The SRM also directed:

> The staff should engage industry to seek volunteer facilities to perform "case studies" to review the accuracy of cost and schedule estimates used in NRC's regulatory analysis (such as the 10 CFR [*Code of Federal Regulations*] Part 73 security upgrades required after the attacks of September 11, 2011 and 10 CFR 50.84c, NFPA 805 program).

The NRC will use the aforementioned public meetings as tools to engage the industry on this initiative and believes that such case studies will result in meaningful insights to inform decisions for improving future regulatory analyses. The final Plan was not revised as a result of this comment.

Issue 3: General Support for the Draft Plan

Three commenters provided general support for the draft Plan. However, some commenters supported the draft Plan and offered comments on areas that could be clarified or improved.

Comment 1: The NEI supported the draft Plan. The NEI stated that it understood the NRC's apparent rationale behind committing limited resources to this effort and agreed that there may not be benefit from a wholesale retrospective analysis.

Comment 2: GE Hitachi Nuclear Energy supported "the NRC approach that provides ongoing assessments of regulatory burdens in various NRC actions involving regulations. . . ." However, GE Hitachi Nuclear Energy recommended that the NRC, when periodically revising the final Plan, describe specific review actions and results that have occurred since the last revision of the final Plan.

Response to Comments 1 and 2: The NRC appreciates the support for the draft Plan. When the NRC periodically revises the final Plan, it will consider including review actions and results that have occurred since the last revision of the final Plan. The final Plan was not revised as a result of Comments 1 and 2.

Issue 4: Openness and Transparency

Comment: The Citizens Oversight stated that while the draft Plan included a section called "Opportunities for Public Participation," the draft Plan did not propose any new opportunities for public participation. The commenter complimented the NRC on its January 31, 2013, Commission public meeting on regulatory decision-making. However, the commenter stated that the NRC limits oversight by the public by adopting overly restrictive definitions of standing, providing overly short periods for comments/petitions, making hearings the exception rather than the rule, making the adjudicatory process too formal, and conducting closed Commission meetings. Also, the commenter noted that the NRC had not responded to public comments and questions submitted after a public meeting in Dana Point, California.

Response: The Citizens Oversight comments are beyond the scope of E.O.s 13579 and 13563, and the NRC's draft Plan. Specifically, the Citizens Oversight comments on public participation relate to such participation in NRC adjudicatory or licensee-specific licensing actions (e.g., standing, petitions for invention, etc.) and not the NRC's regulatory process for regulations. Executive Order 13579 is directed towards the manner in which Independent Regulatory Agencies issue or revise their regulations. To that end, E.O. 13579 recommends that, to the extent permitted by law, Independent Regulatory Agencies abide by a set of general requirements set forth in E.O. 13563, including those associated with public participation. As the Citizens Oversight notes in its comments, the principles of public participation that E.O. 13563 endorses concerns the ability of the public to participate in an agency's adoption of a regulation through the regulatory process. Executive Order 13563 provides that each agency, to the extent feasible and permitted by law, shall "afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days." Executive Order 13563 further provides that each agency, to the extent feasible and permitted by law, shall also "provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov. . . ." As stated in Section G of the NRC's final Plan, the NRC already complies with these principles in its regulatory process for

the development or modification of regulations.

If the Citizens Oversight seeks to modify the NRC's regulations governing its adjudications, then it should avail itself of the opportunities for public participation that the NRC identifies in its final Plan, such as (1) participation in rulemaking activities related to the NRC's adjudicatory procedures in 10 CFR Part 2; or (2) use of the petition for rulemaking process in 10 CFR 2.802 to request specific revision to those procedures. On May 3, 2013 (*78 FR 25886*), the NRC published a proposed rule to streamline and clarify its process for addressing petitions for rulemaking. Proposed changes to that process aim to improve transparency and make the process more efficient and effective. The final Plan was not revised as a result of this comment from the Citizens Oversight; however, the NRC did update Section III of the final Plan to include a description of the aforementioned proposed rule.

Issue 5: Suggestions for Technical Improvements

Comment: The Citizens Oversight suggested several technical improvements, including the following: (1) the NRC should provide direct links to relevant documents, rather than just including an ADAMS accession number; (2) the NRC should include Really Simple Syndication (RSS) feeds on all of its Web pages; and (3) the NRC should remove quotes in URLs. The commenter also noted that links within ADAMS documents do not always work.

Response: The NRC considers this comment out-of-scope with regard to the draft Plan. However, the Office of Information Services is reviewing this comment and may contact the commenter regarding these issues. The NRC would note that the recently developed Documents for Comment page (*http://www.nrc.gov/public-involve/doc-comment.html*) provides links to dockets on *www.regulations.gov* containing documents with an open comment period. Individuals can subscribe to page updates through GovDelivery [3] in order to keep informed of NRC documents that have been published in the **Federal Register** for comment. The final Plan was not revised as a result of this comment.

Issue 6: Thorium Is Incorrectly Classified Under the 1954 Atomic Energy Act

Two commenters stated that thorium is incorrectly classified under the 1954 AEA and should be placed in a less restrictive category of isotopes of elements.

Comment 1: Dr. Alexander Cannara stated that classifications of various radioactive elements that were initiated by the old Atomic Energy Commission are too broad and interfere with various environmental and industrial realities (specifically the rare earth industry).

Comment 2: Stephen Boyd seemed to infer that the NRC should review and presumably revise its regulations to better support the use of thorium reactors. In particular, the commenter suggested allowing public and private efforts to join in the research occurring elsewhere in the world.

Response to Comment 1: Comment 1 from Dr. Cannara is beyond the scope of the NRC's draft Plan. Thorium is already classified differently (as source material) than the other elements that it is compared to (which are categorized as byproduct material). Over the past decade, the staff has acknowledged some concerns about the fact that thorium and uranium are present ubiquitously in nature (unlike byproduct material) and their current classification as source material may result in the regulation of activities not necessarily considered by Congress in enacting the AEA. The final Plan was not revised as a result of Comment 1.

Response to Comment 2: Comment 2 from Stephen Boyd is beyond the scope of the NRC's draft Plan. Thorium is already classified differently (as source material) than the fissile Uranium-235 (which is classified as special nuclear material), with the latter element having much more restrictive limits on possession and use. Although the NRC does periodically review its regulations to identify areas where new technologies may require changes to the regulations, such significant regulatory changes are usually only undertaken when there is reasonable certainty that such technologies will be implemented because the process of significantly revising the regulations may be resource intensive. The NRC will also undertake such revisions at the direction of Congress, usually after appropriate funding is provided. In recent years, some bills have been brought before Congress specifically related to Mr. Boyd's concerns, but to date, Congress has not passed those bills. The NRC is not aware of any prohibitions against private efforts being involved in foreign research on the subject, although any U.S. Government involvement would likely be through the U.S. Department of Energy. The final Plan was not revised as a result of Comment 2.

III. Process Improvements

While developing this final Plan, the NRC identified changes to improve the clarity and transparency of its processes for compliance with Section 610 of the Regulatory Flexibility Act (RFA) and Section 212 of the Small Business Regulatory Enforcement Fairness Act (SBREFA). The changes are described in the following sections.

A. Regulatory Flexibility Act Compliance

Section 610 of the RFA was enacted in 1980 and requires agencies to review those regulations that have or will have a *significant* economic impact on a *substantial* number of small entities every 10 years after publication of such rules as final rules. The purpose of the periodic review is to determine whether the rules should be left unchanged, amended, or rescinded.

The NRC published its plan for Section 610 reviews in 1981. The NRC provided a status on its compliance with RFA to the Small Business Administration (SBA) in 1992 and 2002. In addition, the NRC provided a status on its compliance to Congress in 2005.

The NRC has one recurring rule that has a significant economic impact on a substantial number of small entities, its annual fee rule. This rule amends the licensing, inspection, and annual fees charged to its applicants and licensees. Given that a final fee rule is published each year, the NRC has determined that it does not require a Section 610 periodic review.

The NRC will update its internal procedures to clarify the NRC staff's responsibilities with regards to the Section 610 periodic reviews and to include a process for submitting Unified Agenda entries for those rulemakings that require a Section 610 periodic review. Entries will be added to the "Pre-rule" section of the Unified Agenda when a periodic review is started and will solicit public comment. The NRC will publish the results of its periodic reviews in the "Completed Actions" section of the Unified Agenda, including whether the rule will be left unchanged, revised, or rescinded.

To further improve transparency, the NRC will update the public Web site [4] for RFA procedures to include a list of all final NRC rules that impact small

[3] The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder for the action of interest; (2) click the "Email Alert" link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

[4] *See http://www.nrc.gov/about-nrc/regulatory/rulemaking/flexibility-act.html.*

entities and whether they must undergo a periodic review required by Section 610 of the RFA. This Web site will also include a link to the periodic review initiation and completion entries in the Unified Agenda for each rulemaking that must undergo a Section 610 periodic review.

Section 610 of the RFA allows agencies to update their plan at any time by giving notice in the Federal Register. The information on the public Web site for RFA procedures, which informs the public of which rules must undergo a periodic review and when and provides a link to the results of the periodic review as published in the Unified Agenda, supersedes the NRC's 1981 plan.

B. Small Business Regulatory Enforcement Fairness Act Compliance

Section 212 of the SBREFA was enacted in 1996 and requires that for each rulemaking that requires a Regulatory Flexibility Analysis under 5 U.S.C. 605(b), the agency must publish a "small entity compliance guide." The SBREFA was amended by the Fair Minimum Wage Act of 2007, which requires agencies to: (1) Publish, distribute, and post on their public Web sites compliance guides on the same date of publication of the final rule and (2) submit an annual report (signed by the head of the agency) to the appropriate Congressional Committees describing the status of the agency's compliance with the Act.

The NRC will update internal procedures to clarify the NRC staff's responsibilities with regards to Section 212 of the SBREFA.

The NRC has issued small entity compliance guides and published them either in the **Federal Register** or in the appropriate document collection on the NRC's public Web site; however, the NRC has not published all of its compliance guides in one location. The public Web site for RFA procedures that lists all NRC rules that impact small entities will also include a listing of the NRC's small entity compliance guides and how they may be accessed.

The NRC has not submitted a status report to Congress regarding its compliance with SBREFA. However, the NRC staff is currently drafting the 2013 status report. A link to the status report will be included on the Web site for RFA procedures.

IV. Final Plan for Retrospective Analysis

The NRC's final Plan describes the NRC's processes and activities relating to retrospective analysis of existing regulations, including discussions of the (1) efforts to incorporate risk assessments into regulatory decision-making, (2) efforts to address the cumulative effects of regulation, (3) the NRC's methodology for prioritizing its rulemaking activities, (4) rulemaking initiatives arising out of the NRC's ongoing review of its regulations related to the recent events at the Fukushima Dai-ichi Nuclear Power Plant in Japan, and (5) the NRC's previous and ongoing efforts to update its regulations on a systematic, ongoing basis.

Dated at Rockville, Maryland, this 11th day of February, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2014–03849 Filed 2–21–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 947

[Doc. No. AMS–FV–13–0036; FV13–947–1 FR]

Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in All Counties in Oregon, Except Malheur County; Termination of Marketing Order No. 947

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule, termination of order.

SUMMARY: This final rule terminates Marketing Order No. 947 (order), which regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and in all counties in Oregon, except Malheur County, and the rules and regulations issued thereunder. The Department of Agriculture (USDA) has determined that the marketing order is no longer an effective marketing tool for the Oregon-California potato industry, and that termination serves the current needs of the industry while also eliminating the costs associated with the operation of the marketing order.

DATES: *Effective Date:* February 25, 2014.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Senior Marketing Specialist, or Michelle Sharrow, Rulemaking Branch Chief, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938 or Email: *Melissa.Schmaedick@ams.usda.gov,* or *Michelle.Sharrow@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This action is governed by section 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act," and § 947.71 of Marketing Agreement No. 114 and Marketing Order No. 947, both as amended (7 CFR part 947), effective under the Act and hereinafter referred to as the "order."

USDA is issuing this rule in conformance with Executive Orders 12866 and 13563.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule terminates Federal Marketing Order No. 947 and the rules and regulations issued thereunder. The order authorizes regulation of the handling of Oregon-California potatoes. At a meeting held in Salem, Oregon, on March 7, 2013, the Committee recommended termination of the order.

Section 947.71 of the order provides, in pertinent part, that USDA terminate or suspend any or all provisions of the order when a finding is made that the order does not tend to effectuate the declared policy of the Act. In addition, section 608c(16)(A) of the Act provides

that USDA terminate or suspend the operation of any order whenever the order or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act. Additionally, USDA is required to notify Congress at least 60 days before the date that the order would be terminated.

The order has been in effect since 1942 and provides the Oregon-California potato industry with authority to establish grade, size, maturity, quality, pack and inspection requirements. The order also authorizes the Committee to conduct marketing research and development projects, collect assessments, and establish reporting and recordkeeping requirements.

Based on the Committee's recommendation, USDA suspended the order's handling, reporting, and assessment collection regulations effective July 1, 1999 (64 FR 49352). The suspended handling regulations (§ 947.340) specify minimum quality requirements for potatoes produced within the regulated production area. When the Committee made the recommendation to suspend the handling regulations, the industry believed that the costs of inspections outweighed the benefits of having the regulatory requirements in effect. At that time, the Committee also suspended assessment collection because there were sufficient funds in the monetary reserve to support the Committee's administrative functions. Suspension of §§ 947.247 and 947.180 suspended the collection of assessments and the reporting provision that provided a basis for assessment collection. The Committee also decided to evaluate its finances and the marketing conditions annually thereafter to determine whether to continue with the suspension or take some other action.

After almost 14 years of evaluating the effects of operating without the handling, reporting, and assessment collection regulations, the Committee has determined that suspension has not adversely impacted the Oregon-California potato industry. Marketing conditions and statistics show that the Oregon-California potato industry has steadily declined over the past several years, which led the Committee to conclude that the order is no longer an effective marketing tool. Termination would relieve the industry of the costs and burdens associated with the order.

Evidence reflecting the industry's steady decline include statistics showing that the Oregon-California potato industry has fewer producers and handlers today than 30 years ago, and that acreage and production have significantly decreased. For example, USDA Marketing Order and Agreement Division records from a 1978 continuance referendum indicate that there were approximately 464 producers of potatoes in the order's production area, while the most recent information received from the Committee indicates that there are now only 130 active producers. Furthermore, Committee records indicate that there were 47 handlers in 1978. Currently, there are only 16 handlers. Committee records also indicate that 6,810,195 hundredweight of Oregon-California potatoes were shipped in 1978 compared to shipments of 3,430,548 hundredweight in 2011.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 16 handlers of potatoes subject to regulation under the order and approximately 130 potato producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000 and small agricultural producers are defined as those having annual receipts of less than $750,000. (13 CFR 121.201)

During the 2011 marketing year, the Committee reported that 3,430,548 hundredweight of Oregon-California potatoes were shipped into the fresh market. Based on information from the National Agricultural Statistics Service, the average producer prices for Oregon and California potatoes in 2011 were $8.05 and $14.70 per hundredweight, respectively. Multiplying the 2011 shipment quantity times each of the two state's average producer price, the average gross annual revenue for the 130 Oregon-California potato producers is calculated to range between $212,430 and $387,916.

Typical f.o.b. shipper prices were estimated to be about $2.00 higher than the average grower price per hundredweight. The Committee estimated handler annual receipts from the sale of potatoes by multiplying the estimated shipper prices by individual handler shipment quantities. Based on those computations, the Committee estimated that 15 out of the 16 handlers, approximately 94 percent, had annual receipts of less than $7,000,000. In view of the foregoing, the majority of Oregon-California potato producers and handlers may be classified as small entities.

This rule terminates the Federal marketing order for Oregon-California potatoes and the rules and regulations issued thereunder. The order authorized regulation of the handling of Oregon-California potatoes. The Committee has determined that the order is no longer an effective marketing tool for the Oregon-California potato industry. Evidence shows that suspension of the handling regulations has not adversely impacted the shipment of potatoes and that the costs associated with the order outweigh the benefits. The Committee also believes that the decline in the number of handlers and producers, and the acreage and volume of Oregon-California potatoes supports termination of the order. As a consequence, in a vote at a meeting on March 7, 2013, the Committee recommended that USDA terminate the order.

Section 947.71 of the order provides that USDA terminate or suspend any or all provisions of the order when a finding is made that the order does not tend to effectuate the declared policy of the Act. Furthermore, section 608c(16)(A) of the Act provides that USDA shall terminate or suspend the operation of any order whenever the order or provision thereof obstructs or does not tend to effectuate the declared policy of the Act. An additional provision requires that Congress be notified not later than 60 days before the date the order would be terminated.

The proposed termination of the order is a regulatory relaxation and would reduce the costs to both handlers and producers (while marketing order requirements are applied to handlers, the costs of such requirements are often passed on to producers). Furthermore, following a period of approximately 14 years of regulatory suspension, the Committee has determined that termination of the order would not adversely impact the Oregon-California potato industry.

The Committee considered alternatives to this rule, including continuing with the suspension of the handling regulations, which would require no regulatory action at this time;

however, this would require the Committee to continue collecting assessments and enforcing the reporting requirements. The Committee also considered requesting a producer continuance referendum. The Committee did not support either option, and instead recommended that the order be terminated.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the information collection requirements being terminated were previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Generic Vegetable and Specialty Crops. Termination of the reporting requirements under the marketing order would reduce the reporting and recordkeeping burden on California and Oregon potato handlers by 316.42 hours, and should further reduce industry expenses.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A proposed rule inviting comments regarding the termination of Federal Marketing Order 947 was published in the **Federal Register** on July 22, 2013 (78 FR 43827). The Committee distributed the rule to handlers and producers. In addition, the rule was made available on the internet by the USDA and the Office of the Federal Register. The rule provided a 60-day comment period which ended on September 20, 2013. No comments were received.

Based on the foregoing, and pursuant to section 608c(16)(A) of the Act and § 947.71 of the order, it is hereby found that Federal Marketing Order 947 regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and in all counties in Oregon, except Malheur County, does not tend to effectuate the declared policy of the Act, and is therefore terminated.

Section 8c(16)(A) of the Act requires USDA to notify Congress at least 60 days before terminating a Federal marketing order program. Congress was so notified on November 12, 2013. USDA hereby appoints Committee Chairman, Jay Hoffman; Committee Vice Chairman Troy Betz; Jim Baggenstos, Mark Campbell, John Cross, Todd Dimbat, Scott Fenters, Tad Kloepper, Michael Macy, Frank Prosser, Sidney Staunton, Dan Walchli, and Roy Wright as trustees to conclude and liquidate the affairs of the Committee, and to continue in such capacity until discharged.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action relieves restrictions on handlers by terminating the requirements of the Irish potato order; (2) handling, reporting, and assessment collection regulations under the order have been suspended since 1999; (3) the Committee recommended termination, and all handlers and producers in the industry have been notified and provided an opportunity to comment; and (4) no useful purpose would be served by delaying the effective date.

List of Subjects in 7 CFR Part 947

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

PART 947—[REMOVED]

■ For the reasons set forth in the preamble, and under authority of 7 U.S.C. 601–674, 7 CFR part 947 is removed.

Dated: February 18, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–03900 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Doc. No. AMS–FV–13–0072; FV13–948–2 FIR]

Irish Potatoes Grown in Colorado; Decreased Assessment Rate for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that decreased the assessment rate established for the Colorado Potato Administrative Committee, Area No. 2 (Committee) for the 2013–2014 and subsequent fiscal periods from $0.0051 to $0.0033 per hundredweight of potatoes handled. The Committee locally administers the marketing order for Irish potatoes grown in Colorado. The interim rule was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

DATES: Effective February 25, 2014.

FOR FURTHER INFORMATION CONTACT: Sue Coleman or Gary D. Olson, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Sue.Coleman@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide;* or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866 and Executive Order 13563.

Under the order, Colorado Area No. 2 potato handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable Colorado Area No. 2 potatoes for the entire fiscal period and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on September 1 and ends on August 31.

In an interim rule published in the **Federal Register** on November 22, 2013, and effective on November 23, 2013 (78 FR 69985, Doc. No. AMS–FV–13–0072, FV13–948–2 IR), § 948.216 was amended by decreasing the assessment rate established for Colorado Area No. 2 potatoes for the 2013–2014 and subsequent fiscal periods from $0.0051

to $0.0033 per hundredweight. The decrease in the per hundredweight assessment rate allows the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 80 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 180 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

During the 2011–2012 fiscal period, the most recent for which statistics are available, 15,072,963 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $12.60 per hundredweight, the Committee estimates that 66 Area No. 2 handlers, or about 83 percent, had annual receipts of less than $7,000,000. In view of the foregoing, the majority of Colorado Area No. 2 potato handlers may be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for the 2011 Colorado fall potato crop was $10.70 per hundredweight. Multiplying $10.70 by the shipment quantity of 15,072,963 hundredweight yields an annual crop revenue estimate of $161,280,704. The average annual fresh potato revenue for each of the 180 Colorado Area No. 2 potato producers is therefore calculated to be approximately $896,000 ($161,280,704 divided by 180), which is greater than the SBA threshold of $750,000. Consequently, on average, many of the Colorado Area No. 2 potato producers may not be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2013–2014 and subsequent fiscal periods from $0.0051 to $0.0033 per hundredweight of potatoes. The Committee unanimously recommended 2013–2014 expenditures of $55,745 and an assessment rate of $0.0033. The assessment rate of $0.0033 is $0.0018 lower than the 2012–2013 rate. The quantity of assessable potatoes for the 2013–2014 fiscal period is estimated at 14,360,000. Thus, the $0.0033 rate should provide $47,388 in assessment income. Income derived from handler assessments and funds from the Committee's authorized reserve will be adequate to cover budgeted expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee's meeting was widely publicized throughout the Colorado Area No. 2 potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 18, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Generic Vegetable and Specialty Crops. No changes in those requirements as a result of this action are anticipated. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Colorado Area No. 2 potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Comments on the interim rule were required to be received on or before January 21, 2014. No comments were received. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-13-0072-0001.*

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (78 FR 69985, November 22, 2013) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

PART 948—IRISH POTATOES GROWN IN COLORADO

■ Accordingly, the interim rule amending 7 CFR part 948, which was published at 78 FR 69985 on November 22, 2013, is adopted as a final rule, without change.

Dated: February 18, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–03848 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No. AMS–FV–13–0076; FV13–966–1 FR]

Tomatoes Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Florida Tomato Committee (Committee) for the 2013–14 and subsequent fiscal periods from $0.024 to $0.0375 per 25-pound carton of tomatoes handled. The Committee locally administers the Federal marketing order, which regulates the handling of tomatoes grown in Florida. Assessments upon Florida tomato handlers are used by the

Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* February 25, 2014.

FOR FURTHER INFORMATION CONTACT: Corey E. Elliott, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Corey.Elliott@ams.usda.gov* or *Christian.Nissen@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Florida tomatoes beginning on August 1, 2013, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2013–14 and subsequent fiscal periods from $0.024 to $0.0375 per 25-pound carton of Florida tomatoes.

The Florida tomato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area, and are therefore in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2012–13 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of $0.024 per 25-pound carton of tomatoes that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on August 22, 2013, and unanimously recommended 2013–14 expenditures of $1,824,600 and an assessment rate of $0.0375 per 25-pound carton of Florida tomatoes. In comparison, last year's budgeted expenditures were $1,672,952. The assessment rate of $0.0375 is $0.0135 higher than the rate currently in effect. The Committee depleted its reserve by using the funds to help meet its annual expenditures over the past year. Therefore, the Committee recommended increasing the assessment rate to generate sufficient funds to cover expenditures and increase its reserve balance.

The major expenditures recommended by the Committee for the 2013–14 year include $800,000 for education and promotion, $458,500 for salaries, and $300,000 for research. Budgeted expenses for these items in 2012–13 were $750,000, $436,372, and $250,000, respectively.

The assessment rate recommended by the Committee was derived by reviewing anticipated expenses; expected shipments of Florida tomatoes; income from interest, Market Access Program funds, and specialty crop block grants; and the need to add additional funds to the reserve. Florida tomato shipments for the year are estimated at 35 million 25-pound cartons, which should provide $1,312,500 in assessment income. Income derived from handler assessments, interest, and other sources should be adequate to cover budgeted expenses. Reserve funds projected to be $440,500 will be kept within the maximum permitted by the order of no more than approximately one fiscal period's expenses as stated in § 966.44.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations to modify the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2013–14 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 80 handlers of tomatoes subject to regulation under the marketing order and approximately 100 producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those whose annual receipts are less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2012–13 season was approximately $10.64 per 25-pound carton, and total fresh shipments were approximately 35.5 million cartons. Based on the average price, about 80 percent of the handlers could be considered small businesses under SBA's definition. In addition, based on production data, grower prices as reported by the National Agricultural Statistics Service, and the total number of Florida tomato growers, the average annual grower revenue is below $750,000. Thus, the majority of handlers and producers of Florida tomatoes may be classified as small entities.

This rule increases the assessment rate for the 2013–14 and subsequent fiscal periods from the current rate of $0.024 to $0.0375 per 25-pound carton of tomatoes. The Committee unanimously recommended the increased assessment rate and 2013–14 expenditures of $1,824,600. The increase was recommended to generate sufficient funds to cover the Committee's expenditures and add to its reserve. As previously stated, income derived from handler assessments, interest, and other income should be adequate to meet this year's anticipated expenses.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for the 2013–14 season should average around $9.73 per 25-pound carton of tomatoes. Utilizing this estimate and the proposed assessment rate of $0.0375, estimated assessment revenue as a percentage of total grower revenue would be approximately 0.4 percent for the season.

Alternative expenditure and assessment levels were discussed prior to arriving at this budget. However, the Committee agreed on $1,824,600 in expenditures, reviewed the quantity of assessable tomatoes, the need to add additional funds to the reserve, and recommended an assessment rate of $0.0375 per 25-pound carton of tomatoes.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. These costs are offset by the benefits derived from the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 22, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on December 24, 2013 (78 FR 77604). Copies of the proposed rule were also mailed or sent via facsimile to all Florida tomato handlers. Finally, the proposal was made available through the internet by USDA and the Office of the Federal Register. A 15-day comment period ending January 8, 2014, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the crop year began August 1, 2013, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Florida tomatoes handled during such fiscal period. Further, handlers are aware of this rule, which was unanimously recommended by the Committee at a public meeting. Also, a 15-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 966.234 is revised to read as follows:

§ 966.234 Assessment rate.

On and after August 1, 2013, an assessment rate of $0.0375 per 25-pound carton is established for Florida tomatoes.

Dated: February 18, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–03847 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0381; Directorate identifier 2013–NE–16–AD; Amendment 39–17764; AD 2014–04–06]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Turbomeca S.A. Arrius 2B1, 2B1A, 2B2, and 2K1 turboshaft engines. This AD requires initial and repetitive inspections of the hydro-mechanical metering unit (HMU) high pressure pump drive gear shaft splines, cleaning and inspections of the sleeve assembly splines, and replacement of the HMU if it fails inspection. This AD was prompted by in-flight shutdowns caused by interrupted fuel supply at the HMU. We are issuing this AD to prevent in-flight shutdown and damage to the engine.

DATES: This AD becomes effective March 31, 2014.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

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–2013–0381; 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 mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Anthony W. Cerra, Jr., Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7128; fax: 781–238–7199; email: *anthony.cerra@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR Part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on July 25, 2013 (78 FR 44897). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> A number of in-flight shutdown occurrences have been reported for Arrius 2 engines. The results of the technical investigations concluded that these events were caused by deterioration of the splines on the high pressure (HP)/low pressure (LP) pump assembly drive shaft of the hydro-mechanical metering unit (HMU), which eventually interrupted the fuel supply to the engine. This condition, if not detected and corrected, could lead to further cases of engine in-flight shutdown, possibly resulting in forced landing.
>
> To address these occurrences, Turbomeca published Service Bulletin (SB) No. SB 319 73 2825, which provides inspection instructions. After that SB was issued, further similar occurrences prompted Turbomeca to perform a new assessment of the issue. As a result, it was determined that repetitive inspections of the HMU, including an additional inspection of the sleeve assembly, was necessary to address the issue. Those instructions are provided in Turbomeca Mandatory SB (MSB) No. SB 319 73 2825 version G.
>
> For the reasons described above, this AD requires repetitive inspections of drive gear shaft splines of the HP pump, and depending on findings, accomplishment of applicable corrective actions.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0381-0004.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 44897, July 25, 2013).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed.

Costs of Compliance

We estimate that this AD will affect about 162 engines installed on airplanes of U.S. registry. We also estimate that it will take about one hour per product to comply with this AD. The average labor rate is $85 per hour. Required parts will cost about $753 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $135,756.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

(3) Will not affect intrastate aviation in Alaska 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 a regulatory 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):

2014–04–06 Turbomeca S.A.: Amendment 39–17764; Docket No. FAA–2013–0381; Directorate Identifier 2013–NE–16–AD.

(a) Effective Date

This AD becomes effective March 31, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Turbomeca S.A. Arrius 2B1, 2B1A, 2B2, and 2K1 turboshaft engines.

(d) Reason

This AD was prompted by in-flight shutdowns caused by interrupted fuel supply at the hydro-mechanical metering unit (HMU). We are issuing this AD to prevent in-flight shutdown and damage to the engine.

(e) Actions and Compliance

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

(f) Initial Visual Inspection for HMUs Not Previously Inspected

(1) On the effective date of this AD, for those HMUs that have not previously been inspected using Turbomeca Mandatory Service Bulletin (MSB) No. SB 319 73 2825, Version G, dated January 24, 2013, or earlier versions; perform an initial visual inspection of the HMU high-pressure pump drive gear shaft splines for wear, corrosion, scaling, or cracks, and clean and inspect the sleeve assembly splines for wear, corrosion, scaling, or cracks, at the following:

(i) For HMUs that have accumulated more than 150 operating hours (OHs) since new or since last overhaul, within 50 HMU OHs after effective date of this AD.

(ii) For HMUs that have accumulated 150 or fewer OHs since new or since last overhaul, before exceeding 200 HMU OHs.

(g) Initial Visual Inspection for HMUs That Have Been Previously Inspected

(1) On the effective date of this AD, for those HMUs that have been previously inspected per Turbomeca MSB No. SB 319 73 2825, Version G, dated January 24, 2013, or earlier versions; perform a visual inspection of HMU aft splines of the high pressure pump for wear, corrosion, scaling, or cracks, and clean and inspect the sleeve assembly splines for wear, corrosion, scaling, or cracks, at the following:

(i) For HMUs that have accumulated 300 OHs or more since last inspection, within 200 HMU OHs after effective date of this AD.

(ii) For HMUs that have accumulated fewer than 300 OHs since last inspection, before exceeding 500 HMU OHs.

(h) Repetitive Visual Inspections of HMUs

(1) Thereafter, repetitively visually inspect the HMU aft splines of the high pressure pump, and clean and inspect the sleeve assembly splines for wear, corrosion, scaling, or cracks, at intervals not to exceed 500 HMU OHs.

(2) If, during any initial or repetitive inspection required by this AD, an HMU does not pass inspection, then before further flight, replace the sleeve assembly on the affected high pressure pump drive gear shaft or replace the affected HMU.

(i) Installation Prohibition

After the effective date of this AD, do not install any engine on any helicopter unless the HMU was inspected as required by this AD.

(j) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(k) Related Information

(1) For more information about this AD, contact Anthony W. Cerra, Jr., Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; email: *anthony.cerra@faa.gov;* phone: 781–238–7128; fax: 781–238–7199.

(2) Refer to MCAI European Aviation Safety Agency, AD 2013–0082, dated April 2, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0381-0004.*

(3) Turbomeca MSB No. SB 319 73 2825, Version G, dated January 24, 2013, which is not incorporated by reference in this AD, can be obtained from Turbomeca, S.A. using the contact information in paragraph (k)(4) of this AD.

(4) For service information identified in this AD, contact Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15.

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(l) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on February 10, 2014.

Robert J. Ganley,

Acting Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–03672 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0547; Directorate Identifier 2013–NM–028–AD; Amendment 39–17758; AD 2014–03–21]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 727–200 and 727–200F series airplanes. This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This AD requires a one-time inspection for cracking of the pressure floor of both main wheel wells, and related investigative and corrective actions if necessary; and modifying the pressure floor of both main wheel wells. We are issuing this AD to prevent fatigue cracking in the pressure floor of the main wheel wells, which could lead to rapid loss of cabin pressurization.

DATES: This AD is effective March 31, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 13, 1991 (56 FR 57233, November 8, 1991).

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

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–2013–0547; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory

evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 727–200 and 727–200F series airplanes. The NPRM published in the **Federal Register** on July 18, 2013 (78 FR 42895). This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. The NPRM proposed to require a one-time inspection for cracking of the pressure floor of both main wheel wells, and related investigative and corrective actions if necessary; and modifying the pressure floor of both main wheel wells. We are issuing this AD to prevent fatigue cracking in the pressure floor of the main wheel wells, which could lead to rapid loss of cabin pressurization.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 42895, July 18, 2013) and the FAA's response to each comment.

Request To Clarify the Preamble of the NPRM (78 FR 42895, July 18, 2013)

Boeing requested that we clarify the "Discussion" section of the preamble of the NPRM (78 FR 42895, July 18, 2013). Boeing stated that the "Discussion" section in the preamble of the NPRM did not specifically explain that the NPRM is being issued to complete actions in service information that was not previously AD-mandated, but was recommended as a part of the Model 727 airplane service action requirement (SAR) program. Boeing stated that in two places in the "Discussion" section in the NPRM, reference is made to "certain programs" and "previously established program" when it should more specifically refer to the Model 727 airplane SAR program.

Additionally, Boeing commented that the focus of the "Explanation of Compliance Time" section in the preamble of the NPRM (78 FR 42895, July 18, 2013) should be on the SAR program instead of on widespread fatigue damage (WFD). However, Boeing stated that the restrictions concerning extensions to compliance times for AD-mandated service bulletins related to WFD in the "Explanation of Compliance Time" section in the preamble of the NPRM might be similar to the SAR program.

We concur that the NPRM (78 FR 42895, July 18, 2013) references to "certain programs" and "previously established program" are intended to refer to the Model 727 airplane SAR program. However, the "Discussion" section of the NPRM is not restated in this final rule. Therefore, no change to this final rule is necessary in this regard.

We find that clarification is necessary concerning how the SAR program and WFD affect this final rule. This final rule is being issued to complete actions in one of the service bulletins recommended as a part of the Model 727 airplane SAR program, but not previously AD-mandated. This is necessary because the LOV for Model 727 series airplanes is dependent on timely completion of the previously established SAR program actions. Since some of those actions, including those mandated by this final rule, were not previously mandated, it is necessary to mandate them now as a part of defining the service actions that support the LOV and preclude WFD. This is the link between WFD and the SAR program actions that were not previously mandated by an AD. Since the requirements of this final rule support the LOV and preclude WFD, the statement that we will not grant any extensions of the compliance time to complete any AD-mandated service information related to WFD without extensive new data applies to this final rule. We have not changed this final rule in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 42895, July 18, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 42895, July 18, 2013).

Costs of Compliance

We estimate that this AD affects 94 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and Modification	222 work-hours × $85 per hour = $18,870	$2,906	$21,776	$2,046,944

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–03–21 The Boeing Company: Amendment 39–17758; Docket No. FAA–2013–0547; Directorate Identifier 2013–NM–028–AD.

(a) Effective Date

This AD is effective March 31, 2014.

(b) Affected ADs

This AD affects AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991).

(c) Applicability

This AD applies to The Boeing Company Model 727–200 and 727–200F series airplanes, certificated in any category, line numbers 1103 and subsequent.

(d) Subject

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

(e) Unsafe Condition

This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to prevent fatigue cracking in the pressure floor of the main wheel wells, which could lead to rapid loss of cabin pressurization.

(f) Compliance

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

(g) Inspection

Before the accumulation of 60,000 total flight cycles, or within 24 months after the effective date of this AD, whichever occurs later: Do a one-time detailed inspection for cracking of the pressure floor of both main wheel wells, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989, except as specified in paragraph (h) of this AD. If any indication of distress is found (such as cracking or flaked paint): Before further flight, do an eddy current inspection or penetrant inspection for cracking of the pressure floor of both main wheel wells, and do all applicable related investigative and corrective actions, by accomplishing all the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989. Do all applicable related investigative and corrective actions before further flight.

(h) Exception to Service Information

Where Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989, specifies a close visual inspection, this AD requires a detailed inspection, which is an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.

(i) Preventive Modification

Before further flight after accomplishing the actions required by paragraph (g) of this AD: Do a preventive modification of the pressure floor of both main wheel wells, in accordance with Part III of the Accomplishment Instructions of Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 727–53A0124, Revision 2, dated May 2, 1975, which is not incorporated by reference in this AD.

(k) Termination of Certain Actions in AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991)

Accomplishment of the preventative modification required by paragraph (i) of this AD terminates the repetitive inspection requirement required by AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991), for airplanes with line number 1103 and subsequent.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (m)(1) of this AD.

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

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

(m) Related Information

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

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (n)(4) and (n)(5) of this AD.

(n) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on December 13, 1991 (56 FR 57233, November 8, 1991).

(i) Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on January 18, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–03241 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0078; Airspace Docket No. 12–AAL–1]

Establishment of Class E Airspace; Brevig Mission, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Brevig Mission Airport, Brevig Mission, AK. Controlled airspace is necessary to accommodate aircraft using the new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at the airport. This action enhances the safety and management of aircraft operations at the airport.

DATES: Effective date, 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA, 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

History

On October 31, 2013, the Federal Aviation Administration (FAA) published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) to establish controlled airspace at Brevig Mission Airport, Brevig Mission, AK (78 FR 65239). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Brevig Mission Airport, Brevig Mission, AK. Controlled airspace extending 2 miles north, 6 miles south, 8 miles southeast and 11 miles northwest of the airport is necessary to accommodate the new RNAV (GPS) standard instrument approach procedures at the airport, and enhances the safety and management of aircraft operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Brevig Mission Airport, Brevig Mission, AK.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist to warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

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

* * * * *

AAL AK E5 BREVIG MISSION, AK [New]

Brevig Mission Airport, AK
(Lat. 65°19′53″ N., long. 166°27′57″ W.)

That airspace extending upward from 700 feet above the surface within a line beginning at lat. 65°14′37″ N. long. 166°38′26″ W., to lat. 65°13′20″ N. long. 166°15′02″ W., to lat. 65°16′35″ N. long. 166°11′17″ W., to lat. 65°28′29″ N. long. 166°45′20″ W., to lat. 65°26′22″ N. long. 166°52′31″ W., thence to the point of beginning.

Issued in Seattle, Washington, on February 11, 2014.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–03737 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2013–0017; Airspace Docket No. 13–AAL–1 Establishment of Class E Airspace; Central, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Central Airport, Central, AK. Controlled airspace is necessary to accommodate the new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at the airport. This action enhances the safety and management of aircraft operations at the airport.

DATES: Effective date, 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

History

On October 31, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Central Airport, Central, AK (78 FR 65237). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace at Central, AK. Class E airspace extending upward from 700 feet above the surface, at Central Airport, is established within an area 17 miles east and west of the airport and 4 miles north and 9 miles south of the airport to accommodate new RNAV (GPS) standard instrument approach and departure procedures. This action enhances the safety and management of aircraft operations at the airport.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Central Airport, Central, AK.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist to warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR Part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

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

* * * * *

AAL AK E5 Central, AK [New]

Central Airport, AK
(Lat. 65°34′26″ N., long. 144°46′51″ W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 65°44′11″ N., long. 145°29′55″ W.; to lat. 65°34′00″ N., long. 144°04′28″ W.; to lat. 65°22′44″ N., long. 144°10′35″ W.; to lat. 65°26′43″ N., long. 145°19′38″ W.; thence to the point of origin.

Issued in Seattle, Washington, on February 11, 2014.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–03739 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 120416009–4095–02]

RIN 0648–BB78

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program

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

ACTION: Final rule.

SUMMARY: NMFS adopts a final rule that modifies the vessel ownership requirement for an exemption from the owner-on-board requirement in the Individual Fishing Quota (IFQ) Program

for the fixed-gear commercial Pacific halibut and sablefish fisheries off Alaska. This rule imposes a 12-month vessel ownership requirement on initial individual recipients of quota share (QS) who wish an exemption from the owner-on-board requirement and who wish to use a hired master to harvest their IFQ. For the 12-month period prior to applying to use a hired master, an individual QS holder must own a minimum 20-percent interest in the vessel that the hired master will use to fish the IFQ on behalf of the individual QS holder. The rule temporarily suspends the 12-month vessel ownership requirement for an initial individual recipient of QS whose vessel has been totally lost, irreparably damaged, or so damaged that the vessel requires at least 60 days for repairs. This action is intended to maintain a predominantly owner-operated fishery in the Pacific halibut and sablefish fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and other applicable laws. This rule will go into effect 13 months after the publication of the rule in the **Federal Register**.

DATES: Effective March 23, 2015, except for § 679.5(l)(7)(i), which will be effective on March 26, 2014.

ADDRESSES: An electronic copy of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA or Analysis) prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *https://alaskafisheries.noaa.gov/cm/analyses/*. An electronic copy of the RIR/IRFA dated November 9, 2005, prepared for the prior action on the same subject is also at *https://alaskafisheries.noaa.gov/cm/analyses/*. An electronic copy of the Proposed Rule (77 FR 65843, October 31, 2012) may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *https://alaskafisheries.noaa.gov/regs/summary.htm*.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or by email to *OIRA_submission@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Mary Alice McKeen, 907–586–7228.

SUPPLEMENTARY INFORMATION: This rule amends the vessel ownership requirement for initial individual recipients of QS in the IFQ Program who wish to hire a master to harvest their IFQ rather than be on board the vessel themselves for the harvest of their IFQ. IFQ Program regulations are located primarily at 50 CFR 679.40 to 679.45. This rule also modifies regulations at § 679.5 that specify reporting requirements for Registered Buyers who receive and purchase landings of halibut and sablefish. This modification corrects an unintended error in a final rule recently promulgated by NMFS.

Under the current regulations of the IFQ Program, initial recipients of catcher vessel QS may receive an exemption from the owner-on-board provision, and may hire a master to harvest their annual IFQ, if those initial recipients own a minimum 20-percent interest in the vessel that the hired master will use (§ 679.42(i)(1)). This rule adds a 12-month vessel ownership requirement for initial individual recipients of catcher vessel QS. This rule provides that for the 12-month period prior to applying to use a hired master, an individual QS holder must own a minimum 20-percent interest in the vessel that the hired master will use to harvest the IFQ. This rule temporarily suspends the 12-month vessel ownership requirement for an individual QS holder who loses a vessel. This rule does not apply to individual QS holders in Southeast Alaska (halibut QS for IFQ regulatory Area 2C and sablefish QS for the IFQ regulatory area east of 140° long.) because they may not hire a master to harvest their IFQ.

NMFS published a proposed rule with the 12-month vessel ownership provision in the **Federal Register** on October 31, 2012 (77 FR 65843). The 30-day comment period on the proposed rule ended on November 30, 2012. NMFS received six comment letters by November 30, 2012, and one comment letter on December 5, 2012. NMFS considered these 7 comment letters, which contained 22 unique comments. These comments are summarized and responded to in the "Comments and Responses" section of this preamble. In response to public comments on the proposed rule and further review by NMFS, NMFS changed the regulatory text between the proposed rule and this final rule. These changes are described in the "Changes From the Proposed Rule" section of this preamble.

Background

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea. The IPHC regulations are subject to approval by the Secretary of State with concurrence of the Secretary of Commerce.

Under the Halibut Act, the North Pacific Fishery Management Council (Council) may recommend that the Secretary of Commerce adopt additional management regulations for the halibut fishery in Alaska waters that are not in conflict with regulations adopted by the IPHC (16 U.S.C. 773c(c)). The Council exercised this authority through development of the IFQ Program and continues to exercise this authority when it recommends changes to the IFQ Program.

NMFS manages sablefish as a groundfish species under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA groundfish FMP) and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI groundfish FMP). The fishery management plans are prepared by the Council under the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and are implemented by regulations at 50 CFR part 679. After consulting with the Council, NMFS establishes an annual total allowable catch (TAC) for each groundfish species, including sablefish, in the Gulf of Alaska and BSAI. NMFS establishes TACs and other groundfish harvest specifications 2 years in advance. For an example, see the Groundfish Harvest Specifications for 2013 and 2014 for BSAI (78 FR 13813, March 1, 2013).

Individual Fishing Quota (IFQ) Program

In 1995, NMFS implemented the IFQ Program under the authority of the Magnuson-Stevens Act and the Halibut Act (58 FR 59375, November 9, 1993). The IFQ Program applies to the fixed-gear commercial halibut and sablefish fisheries in the Exclusive Economic Zone off Alaska. Under the IFQ Program, NMFS initially awarded quota share (QS) to applicants that owned or

leased vessels from which halibut or sablefish landings occurred in 1988 to 1990 (50 CFR 679.40). A person that received QS as an initial recipient was either an (1) individual or natural person or (2) a non-individual entity or legal person, such as a corporation, partnership, or association.

NMFS initially issued QS in Category A, B, C, and D. Once issued, the category of QS limits how the QS holder can use the QS. Category A QS is catcher/processor QS. Category A QS authorizes the QS holder to harvest and process the pounds specified on the IFQ permit from a vessel of any length. Category A QS has no owner-on-board requirement. Category B, C, and D QS is catcher vessel QS. Category B, C, and D QS authorizes the QS holder to catch or harvest the pounds specified on the QS holder's IFQ permit from vessels within specific categories of vessel length (see § 679.42(a)(5) for additional detail). This rule applies only to catcher vessel QS: Category B, C, and D QS. When this preamble refers to QS, it means catcher vessel QS—Category B, C and, D QS—unless otherwise indicated.

Each year, in accordance with the Halibut Act and the Magnuson-Stevens Act, NMFS establishes a halibut catch limit and sablefish TAC. NMFS divides among QS holders the portion of the halibut catch limit and sablefish TAC that is allocated to the fixed gear fishery (§ 679.40). NMFS translates each QS holder's units into a number of halibut or sablefish pounds that the QS holder may harvest. This number of pounds is the Individual Fishing Quota or IFQ belonging to the QS holder. With a few exceptions not relevant to this rule, NMFS sends every QS holder an annual IFQ permit. The IFQ permit authorizes the IFQ permit holder to harvest a specified number of halibut or sablefish pounds in a particular year. The IFQ may only be harvested in the regulatory area designated on the IFQ permit. If the IFQ permit is for a catcher vessel, the IFQ permit specifies the maximum length of the catcher vessel from which the IFQ may be fished.

Owner-on-Board Requirement in the IFQ Program

The owner-on-board requirement is a central feature of the IFQ Program. The IFQ regulations require individuals who hold catcher vessel QS to be on board the vessel at all times during an IFQ fishing trip and to be present during the landing at the end of the trip (§ 679.42(c)). The purpose of the owner-on-board requirement is to maintain the predominantly owner-operator character of the IFQ fisheries and to ensure that catcher vessel QS remains largely in the hands of active fishermen.

In designing the IFQ Program, however, the Council exempted initial individual recipients of catcher vessel QS from the owner-on-board requirement, as long as the initial individual recipients owned the vessels from which their IFQ was fished (§ 679.42(i)). The exemption from the owner-on-board requirement did not, however, apply to individuals who received QS for Southeast Alaska: halibut QS for IFQ regulatory Area 2C and sablefish QS for the IFQ regulatory area east of 140° long. (§ 679.42(i)(3)).

The Council also exempted non-individual entities that were initial recipients of QS from the owner-on-board requirement, as long as they owned the vessel from which the IFQ was fished (§ 679.42(j)). Unlike individuals, non-individual entities do not have the option of being "on the boat" while their IFQ is fished. That is because non-individual entities are legal entities only. A corporation cannot get on a vessel. If non-individual entities are to harvest their IFQ at all, they must use a hired master or hired skipper. Thus, non-individual entities must own the vessel that the hired master will use simply as a condition of being able to harvest their QS and associated IFQ at all.

For all initial recipients of QS—individuals and non-individuals—the Council recommended, and NMFS adopted, a regulation in 1999 that specified a minimum percentage of ownership that an initial recipient must have to show that they "owned" a vessel that a hired master will use (64 FR 24960, May 10, 1999). Under current regulations, an initial recipient must own a minimum 20-percent ownership interest in the vessel that a hired master will use on behalf of an initial recipient. But current regulations do not specify a duration—for how long—an initial recipient must have that 20-percent vessel ownership interest.

Acquiring QS by Transfer in the IFQ Program

The IFQ Program has two ways to acquire QS: (1) By initial issuance and (2) by transfer. Only initial recipients of QS are exempt from the owner-on-board requirement by owning the vessel that their hired master will use. Under current regulation, an initial recipient may be exempt from the owner-on-board requirement for all QS that an initial recipient holds: Whether the initial recipient acquired the QS by initial issuance or by transfer. NMFS has proposed a regulation that would prevent an initial recipient from using a hired master to harvest QS that an initial recipient acquired by transfer after February 12, 2010, with a limited exception for small amounts of QS (78 FR 24707, April 26, 2013). The IFQ Program restricts who may acquire QS by transfer. If an individual wishes to acquire QS by transfer, the individual must be an initial recipient of QS or an individual who has 150 days experience in a harvesting crew in a commercial fishery in the United States (§ 679.2, § 679.42(g)).

Except for Community Quota Entities, which are discussed in Comment 10, if a non-individual entity, such as a corporation or a partnership, wishes to acquire QS by transfer, the non-individual entity must have been an initial recipient of QS. Furthermore, if a non-individual entity undergoes a change, and a change includes the addition of any shareholder to a cooperation or any partner to a partnership, the non-individual entity cannot acquire additional QS by transfer and loses the ability to use a hired master for all of its QS (§ 679.42(j)). The result of the restrictions in current regulations is that new entrants into the IFQ fisheries—persons who did not receive QS at the inception of the IFQ Program—must be individuals with substantial crew experience in a domestic commercial fishery.

By limiting the exemption from the owner-on-board requirement to initial recipients and by requiring that new QS holders have crew experience, the Council anticipated that all QS would eventually be held by active fishermen who would be subject to the owner-on-board requirement. The Council anticipated that initial recipients who were individuals would retire from the fishery and transfer their QS. The Council took this action because it concluded that initial individual recipients of QS were hiring masters instead of retiring from the fishery.

Rationale for This Final Rule

This rule results from a long-standing commitment by the Council to enforce a feature of the IFQ Program that has been present since the beginning of the IFQ Program, namely that if an individual QS holder wishes an exemption from the owner-on-board requirement, the QS holder must have an ownership interest in the vessel that the hired master will use. The Council concluded that the current IFQ regulations did not prevent initial individual recipients of QS from circumventing the intention of the vessel ownership requirement and from hiring masters to harvest their IFQ from vessels in which individual QS holders

had an ownership interest only for the duration of an IFQ trip.

This rule specifies the duration of vessel ownership interest that an individual QS holder must have if the QS holder wishes an exemption from the owner-on-board requirement. An initial individual recipient of QS must own a minimum 20-percent ownership interest in the vessel that the hired master will use to fish the IFQ for the 12-month period prior to when the individual QS holder applies to use a hired master. If an individual QS holder experiences a vessel loss, this rule suspends the 12-month vessel ownership requirement until December 31 of the year following the vessel loss. This rule suspends the vessel ownership requirement in three situations of vessel loss: A total, physical loss of a vessel; a vessel that has been irreparably damaged; and a temporary loss or temporary disablement of a vessel, meaning an accident that materially and adversely affects the vessel's seaworthiness or fitness for service and requires at least 60 days of repairs.

The preamble to the proposed rule contains further explanation of the need for this action, previous actions on the same subject, and the rationale for this rule (77 FR 65843, October 31, 2012). NMFS' responses to comments also provide additional detail on this action.

Terminology

This preamble refers to "the individual QS holder" as the individual who is subject to the owner-on-board requirement and who may be exempt from the owner-on-board requirement by owning the vessel that the hired master will use. To apply for a hired master permit, the QS holder must have received an IFQ permit. However, this preamble generally uses the term individual QS holder rather than individual IFQ permit holder.

This preamble uses the terms "hired skipper" and "hired master" interchangeably as is common practice by participants in the IFQ fishery. The Analysis for this action uses the term "hired skipper." The proposed rule and final rule text use the term "hired master." A hired skipper or hired master is the person who is named on a hired master permit. The hired master permit enables the hired master to harvest the halibut or sablefish on the IFQ permit that NMFS has issued to the QS holder. The QS holder applies for the hired master permit, designates the individual who will be the hired master, and designates the vessel that the hired master will use.

This preamble uses the term "vessel loss" to refer to the three types of vessel loss described in the preceding section.

Changes From the Proposed Rule

This section explains the 16 changes in the regulatory text from the proposed rule to the final rule. Changes 14 and 15 were made in response to public comments. The other changes make minor clarifications in the text of the final rule and correct an unintended error in a final rule recently promulgated by NMFS. This section also clarifies a statement in the preamble to the proposed rule regarding the submission of United States Coast Guard Form 2692 to report a marine casualty.

The changes from the proposed rule text in the final rule text are as follows.

1. The final rule clarifies the role of additional written documentation in § 679.42(i)(1)(i) and (ii). The final rule clarifies that if an individual QS holder wishes an exemption from the owner-on-board requirement, the formal ownership documents for the vessel that the hired master will use must list the individual QS holder as an owner of the vessel. If these formal documents do not show the individual QS holder as owning the required 20-percent ownership for 12 months, the individual QS holder may prove that fact with additional written documentation. The proposed rule at § 679.42(i)(1)(i) stated that for a documented vessel, the individual QS holder must have "continuously owned a minimum 20-percent interest in the vessel for the previous 12 months as shown by the U.S. Abstract of Title issued by the U.S. Coast Guard, and any other documentation that shows the individual as an owner indicating percentage ownership." The proposed rule at § 679.42(i)(1)(ii) stated that for an undocumented vessel, which means a vessel that is not federally documented, the individual QS holder must have "continuously owned a minimum 20-percent interest in the vessel for the previous 12 months as shown by a State of Alaska license or registration, and any other documentation that shows the individual as an owner indicating percentage of ownership." This language does not clearly state what must be on the Abstract of Title or State license and what may be on other written documentation.

The preamble to the proposed rule clearly stated that the individual QS holder must be an owner on the documents of record showing vessel ownership—the Abstract of Title for federally documented vessels and the State license for State-documented vessels—and that the individual QS holder could submit additional written documentation only if those documents did not show the required 20-percent ownership interest for the 12-month ownership period: "If the U.S. Abstract of Title or State of Alaska documents do not prove the required percentage interest and duration, the QS holder would be required to submit additional written documentation to NMFS establishing the required percentage of ownership interest and duration" (77 FR 65847, October 31, 2012).

Accordingly, NMFS clarifies the final rule in § 679.42(i)(1)(i) and (ii) and conforms it to the preamble to the proposed rule and the current regulation. The final rule provides that an individual QS holder may claim an exemption from the owner-on-board requirement if the individual QS holder is an owner of a documented vessel "as shown by the U.S. Abstract of Title issued by the U.S. Coast Guard that lists the individual [QS holder] as an owner and, if necessary to show 20-percent ownership for 12 months, additional written documentation." With a non-documented vessel, an individual QS holder may claim an exemption from the owner-on-board requirement if the individual QS holder is an owner of the vessel "as shown by a State of Alaska license or registration that lists the individual [QS holder] as an owner and, if necessary to show 20-percent ownership for 12 months, additional written documentation."

2. The final rule revises the proposed regulatory text at § 679.42(i)(1)(i), § 679.42(i)(1)(ii), and § 679.42(i)(1)(v) by replacing "for the previous 12 months" with "during the 12-month period previous to the application by the individual [QS holder] for a hired master permit." This change more precisely defines the 12-month period.

3. The final rule revises proposed regulatory text at § 679.42(i)(1)(iv)(B) by replacing the phrase "individual entity" with "individual" because "individual entity" is not a recognized term and is a confusing term.

4. The final rule clarifies that the 12-month vessel ownership requirement applies to all individual QS holders who seek exemption from the owner-on-board requirement based on ownership of a vessel from which their IFQ will be fished. Under current regulation, § 679.42(i)(1) establishes the general requirement that an individual QS holder can be exempt from the owner-on-board requirement by owning 20 percent of the vessel that the hired master will use. Under current regulation, § 679.42(i)(4) states that the exemption in § 679.42(i)(1) is available

to an individual that meets the 20-percent vessel ownership requirement by owning an interest in the non-individual entity, such as a corporation, that owns the vessel that the hired master will use. For example, under § 679.42(i)(4), if a corporation is the sole owner of a vessel, and an individual QS holder owns 20 percent of the corporation (typically by owning 20 percent of the shares in a corporation), the individual QS holder meets the 20-percent vessel ownership requirement and may hire a master to fish IFQ from that vessel.

The proposed rule modified the 20-percent vessel ownership requirement in § 679.42(i)(1) by adding a time requirement to it: The individual QS holder is exempt from the owner-on-board requirement if the individual owns 20 percent of the vessel for the 12-month period prior to when the individual applies for a hired master permit. The proposed rule did not explicitly modify § 679.42(i)(4) to apply the 12-month vessel ownership requirement when an individual QS holder claims an exemption from the owner-on-board requirement by owning an interest in the entity that owns the vessel.

The final rule corrects that omission and revises § 679.42(i)(4). The final rule revises § 679.42(i)(4) by applying the 12-month ownership requirement to individual QS holders who claim an exemption from the owner-on-board requirement by owning an interest in the corporation or other entity that owns the vessel. Under the final rule, those QS holders must show a 20-percent ownership interest in the vessel "during the 12-month period previous to the application by the individual for a hired master permit." Every part of the rationale in the proposed rule applies with equal force to individual QS holders who claim an exemption from the owner-on-board requirement by owning 20 percent of a vessel in their own name and individual QS holders who claim an exemption by owning an interest in the corporation or partnership that owns the vessel.

5. The final rule changes § 679.42(i)(4) to clarify the provision. The last sentence in § 679.42(i)(4) currently states, "For purposes of this paragraph, interest in a vessel is determined as the percentage ownership of a corporation, partnership, association or other non-individual entity by that individual multiplied by the percentage of ownership of the vessel by the corporation, partnership, or other non-individual entity." The final rule revises this sentence in § 679.42(i)(4) to more clearly state whose interest in the vessel must be determined, namely the interest of the individual QS holder, and how to calculate that interest, "For purposes of this paragraph, an individual's interest in a vessel is determined by the percentage ownership by the individual of a corporation, partnership, association or other non-individual entity that has an ownership interest in the vessel multiplied by the percentage of ownership of the vessel by the corporation, partnership, or other non-individual entity." For example, under the existing regulation and this final rule, if an individual owns 50 percent of a corporation, and the corporation has a 50 percent ownership interest in the vessel, the individual's ownership interest in the vessel is .50 multiplied by .50, which means the individual has a .25 or 25 percent ownership interest in the vessel.

6. The final rule clarifies the proposed rule at § 679.42(i)(6) and (7) to state that, in the event of vessel loss and vessel disablement, the QS holder does not have to meet the 12-month vessel ownership requirement but still must meet the 20-percent vessel ownership interest requirement.

The Council clearly stated its intent on this point at its October and November 2007 meetings. The Council motions at both meetings explicitly state that, in the event of a total vessel loss or a vessel needing significant repairs, the QS holder is exempt from the 12-month vessel ownership requirement, but not the 20-percent vessel ownership requirement (Council Minutes, NPFMC Web site, *http://www.alaskafisheries.noaa.gov/npfmc*). The Analysis states that, in the event of total vessel loss or temporary vessel loss due to repairs, the QS holder would be exempt from the 12-month vessel ownership requirement, but not the 20-percent requirement. The proposed rule explicitly stated in the preamble: "The exemption for loss of or damage to a vessel applies to the 12-month ownership requirement only, and not the 20-percent ownership requirement. If a QS holder's vessel is damaged and undergoing repairs that will take at least 60 days, the QS holder may acquire temporary interest in another vessel in order to hire a master, but that temporary interest must constitute a minimum of 20-percent ownership of the vessel." (77 FR 65847, October 31, 2012).

The text of the proposed rule stated that in the event of total loss or temporary disablement of a vessel, the owner of the vessel "may remain exempt" from the owner-on-board requirement but did not specify completely the terms of the QS holder's continuing exemption. The Council motions, the Analysis, and the preamble to the proposed rule all clearly state that, in the event that the individual QS holder suffers a total or temporary loss of a vessel, the QS holder's exemption from the owner-on-board requirement is still conditioned on the QS holder owning a 20-percent interest in the vessel that will fish the QS holder's IFQ. The final rule corrects the proposed rule on this point.

7. The final rule revises the proposed regulatory text at § 679.42(i)(6) and § 679.42(i)(7) by replacing "owner," "owner of such vessel," and "owner of lost vessel" with "individual." NMFS makes this change because the rule applies to individuals who are initial recipients of QS and because the existing regulatory text uses "individual."

8. The final rule reorganizes the proposed regulatory text in § 679.4(i)(6) and (i)(7) by adding the phrase "provided the individual meets the following requirements," and then numbering all the requirements that the individual QS holder must meet, because the proposed rule included only two of four requirements in the numbered list.

9. The final rule revises the opening phrase in the proposed regulatory text at § 679.42(i)(6) from "[i]n the event of the total loss of a vessel" to "[i]n the event of the total loss or irreparable damage to a vessel," because the rule applies to situations of a total loss of a vessel and irreparable damage to a vessel. For the same reason, the final rule makes a similar change later in § 679.42(i)(6), namely from "[t]he lost vessel must be" in 679.42(i)(6)(i) to "[t]he lost vessel or irreparably damaged vessel is" in § 679.42(i)(6)(ii).

10. The final rule revises the first sentence of § 679.42(i)(6) and (i)(7) by substituting the phrase "the year following the year in which" for the phrase "the year following the year that which" so that the final rule text states, "the individual may remain exempt [from the owner-on-board requirement] under paragraph (i)(1) of this section until December 31 of the year following the year in which the vessel was [lost, damaged, or disabled]." This change eliminates the grammatically incorrect phrase "the year that which" and makes clear the ending date of the exemption.

11. The final rule revises the proposed regulatory text in § 679.42(i)(6) and (i)(7) from that the lost or disabled vessel must have been used to harvest halibut IFQ or sablefish IFQ "by the owner" to that the vessel must have been used to harvest halibut IFQ or sablefish IFQ "of the individual." NMFS makes this

change because the lost or disabled vessel must have harvested IFQ belonging to the individual QS holder but the IFQ did not have to be harvested by the individual QS holder.

12. The final rule changes the references in the proposed regulatory text at § 679.42(i)(7) from "damaged" vessel to "disabled" vessel to distinguish the disabled vessel in § 679.42(i)(7) from the irreparably damaged vessel in § 679.42(i)(6).

13. The final rule revises the proposed regulatory text in § 679.42(i)(7) from the requirement that "necessary repairs require at least 60 days to be completed" to the more precise requirement that "[t]he repairs from the accident require at least 60 days to be completed."

14. The final rule eliminates the phrase "or negligence" from the proposed rule at § 679.42(i)(6). The proposed rule at § 679.42(i)(6) temporarily suspended the 12-month vessel ownership requirement for a QS holder who suffered a total loss of a vessel as long as the QS holder showed that the total loss was caused by "an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct or negligence of the owner or agent."

The "or negligence" phrase was the subject of a public comment noted in Comment 11. The commenter noted that the proposed rule limited the ability of a QS holder to use a hired master on a replacement vessel if the QS holder lost their prior vessel due to an act of negligence by the vessel owner or the vessel owner's agent. The commenter identified vessel groundings as an event that could cause a vessel loss. The commenter stated that most vessel groundings are the result of some level of negligence, that a common cause for grounding is that a skipper or a crew member falls asleep during wheel watches and that it would be difficult for NMFS to determine negligence.

NMFS agrees with the comment. NMFS concludes that the proposed rule mistakenly required NMFS to determine if a QS holder lost a vessel due to negligence and to deny suspension of the 12-month vessel ownership requirement on that basis. Except for the negligence language, the proposed rule incorporated the standard in the American Fisheries Act (AFA) for determining the cause of a total vessel loss and for limiting the use of a replacement vessel. The AFA did not require NMFS to determine whether negligence was the cause of any loss or damage to an AFA vessel. The standard in the AFA in 2007, when the Council considered this action, was that in the event of a total or constructive loss of an AFA vessel, the owner of the vessel could replace the vessel if the loss was caused by any of the causes that were specifically enumerated, namely "an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel," or if the cause of the vessel loss fell within a remaining catchall category, "any other event not caused by the willful misconduct of the owner or agent" (section 208(g) of the AFA, *https://alaskafisheries.noaa.gov/sustainablefisheries/afa/afa.pdf*).

The Analysis for this action contains no indication that the Council intended that NMFS determine whether a total vessel loss was due to negligence—a determination that could be difficult and time-consuming—and deny the suspension of the 12-month ownership requirement on that basis. The preamble to the proposed rule did not state that NMFS should determine whether a total vessel loss was due to negligence and deny the suspension of the 12-month ownership requirement on that basis. NMFS concludes that the proposed rule text did not comport with Council intent and erroneously contained the negligence limitation. The final rule retains the AFA standard at § 679.42(i)(6)(i), modified for the IFQ context, namely to use a hired master on a replacement vessel, the individual QS holder must show that the "loss or irreparable damage to the vessel was caused by an act of God, an act of war, a collision, an act or omission of a party other than the individual [QS holder] or agent of the individual [QS holder], or any other event not caused by the willful misconduct of the individual [QS holder] or agent of the individual [QS holder]."

15. The final rule eliminates the changes in the proposed rule to § 679.42(j). Section 679.42(j) is the current regulation that governs the use of IFQ by corporations, partnerships, associations, or other non-individual entities that hold QS. The proposed rule added the 12-month ownership requirement to § 679.42(j). The application of the proposed rule to QS holders that are non-individual entities was the subject of the public comment described in Comment 17. In response to this comment, NMFS reexamined the record of this action. NMFS concluded that the Council did not intend to impose the 12-month vessel ownership requirement on non-individual QS holders, such as corporations, partnerships, or associations. NMFS therefore eliminates the changes to § 679.42(j) in the final rule.

The Analysis for this action states unequivocally that the action approved by the Council imposed the 12-month ownership requirement only on individual QS holders. Section 5 of the Analysis states: "For clarity, QS and QS holders who must hire skippers are not subject to this action or considered in this analysis. Persons who 'must' hire skippers are all non-individual QS holders." Non-individual QS holders means corporations, partnerships, associations, and other legal entities that hold QS. Non-individual QS holders were "not subject to this action or considered in this analysis."

Individual QS holders were subject to the Council's action and were considered in the Analysis of this action. Individual QS holders means natural persons that hold QS. Individual QS holders who initially received Quota Share may, but not must, hire a skipper to harvest their annual IFQ. The Analysis showed that from 1995 to 2010, the number of individual QS holders declined through attrition but the remaining individual QS holders were increasing their use of hired masters (Analysis, Table 3, Table 4, Table 7; see **ADDRESSES**).

The proposed rule cited this evidence to describe the problem that the rule was designed to solve, "Over the course of the IFQ Program, the number of initial QS holders who may hire a master has declined through attrition, while the reliance on hired masters by those QS holders has increased. While this may appear contradictory, it demonstrates that initial recipients who used to be active in the fishery are retired from active participation and instead are hiring skippers to fish their IFQ permits." (77 FR 65846, October 31, 2012). This problem statement only applies, and only could apply, to individual QS holders because it is only individual QS holders, who could have retired from active participation and begun hiring skippers to fish their IFQ permits. Non-individual QS holders never were, and never could have been, active in the fishery by fishing their own IFQ permits. Thus, the record of this action does not support applying the proposed rule to QS held by non-individual entities. NMFS also clarifies a statement in the preamble to the proposed rule with regard to Form 2692 and a QS holder's claim that a vessel is temporarily disabled. Form 2692 is a United States Coast Guard (USCG) form. The current title of Form 2692 is "Report of Marine Casualty." The former title of Form 2692 was "Report of Marine Accident, Injury or Death."

The preamble to the proposed rule stated: "If USCG Form 2692 is not required to be completed for a vessel at the time of an incident that caused the 60-day duration of repair, then the vessel owner would be required to provide additional documentation to NMFS demonstrating that the vessel meets the requirements of this exception" (77 FR 65847, October 31, 2012).

The preamble implies that Form 2692 may not be required in situations where a QS holder claims that he or she cannot meet the 12-month vessel ownership requirement because the QS holder's vessel is temporarily disabled. This is not the case. To prove a claim of temporary vessel disablement under § 679.42(i)(7), the individual QS holder must show that the vessel is disabled "from repairs required by an accident that materially and adversely affected the vessel's seaworthiness or fitness for service." Under USCG regulations at 46 CFR 4.05–1, if a vessel is involved in "an occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route," a vessel operator or other person in charge of the vessel must report the incident to the USCG. The USCG form for reporting marine accidents is Form 2692: *http://marineinvestigations.us.* Thus, although it is true that a vessel operator does not have to report all accidents to the USCG, a vessel operator or other person in charge of a vessel does have to report to the USCG on Form 2692 all accidents that constitute a "temporary vessel disablement" under this rule. To prove a claim of temporary vessel disablement, the individual QS holder must submit to NMFS a copy of Form 2692 that has been submitted to the USCG concerning the accident.

NMFS notes that if an individual submits to NMFS a copy of Form 2692 that has been submitted to the USCG, that form alone does not show that the individual QS holder meets the requirements in the rule to show that a vessel is temporarily disabled. The individual QS holder must also submit documentation that the accident will require, or has required, at least 60 days of repairs.

16. The final rule modifies regulations at § 679.5(l)(7)(i) to correct reporting requirements for Registered Buyers who receive and purchase landings of sablefish or halibut or Community Development Quota (CDQ) halibut. The regulations at § 679.5(l)(7)(i) require Registered Buyers to annually submit an IFQ Buyer Report to NMFS. The information submitted on IFQ Buyer Reports is used to calculate and assess fees to recover the costs of managing and enforcing the IFQ Program from fishery participants (§ 679.43). NMFS also uses information submitted on IFQ Buyer Reports to calculate and assess observer deployment fees for the North Pacific Groundfish Observer Program (§ 679.55). These reporting requirements were promulgated in a 2012 observer program final rule (77 FR 70062, November 21, 2012). NMFS inadvertently revised these reporting requirements in a final rule to implement a halibut catch sharing plan for guided sport and commercial fisheries in Alaska (78 FR 75844, December 12, 2013). The halibut catch sharing plan final rule incorrectly removed the requirement for Registered Buyers of landings of CDQ halibut to submit an IFQ Buyer Report. The halibut catch sharing plan final rule also incorrectly revised regulations specifying the information that must be included on an IFQ Buyer Report and the methods for submitting the report to NMFS. This final rule revises § 679.5(l)(7)(i) to correct these inadvertent errors.

Comments and Responses

NMFS received 7 letters that contained 22 comments on the proposed rule.

Comment 1. One commenter supports the proposed rule. The commenter supports the Council's goal of preserving the historical character of the commercial Pacific halibut and sablefish fisheries as owner/operator fisheries and believes the proposed rule is an effective way to promote that goal.

Response. NMFS notes this support.

Comment 2. The commenter asserts that the Federal system of fishery management is a fraud and does not benefit the public who are the real owners of these fish.

Response. This comment does not specifically address the proposed rule. The issue of the overall validity of Federal management of marine resources is outside the scope of this action. The commenter raises no relevant issues or concerns that were not addressed in the preamble to the proposed rule or the Analysis prepared for this action.

Comment 3. The proposed rule accomplishes little in light of recent Council action that limits the exemption that initial individual recipients have from the owner-on-board requirement for QS that they acquire after February 12, 2010. This other Council action violates the American with Disabilities Act.

Response. The commenter is correct that the Council has recommended, and NMFS has recently proposed, a rule that largely eliminates the exemption from the owner-on-board requirement for QS that initial individual QS recipients acquire by transfer after February 12, 2010 (78 FR 24707, April 26, 2013). NMFS will consider comments that it receives on that proposed rule when it responds to comments on that proposed rule.

NMFS agrees that this other proposed rule, if adopted, would prevent initial individual QS recipients from expanding the amount of QS that is subject to an exemption from the owner-on-board requirement. This other proposed rule, however, does not obviate the need for this rule. First, the other action is a proposed, not a final, rule. Second, the other action does not affect in any way QS that initial individual recipients of QS acquired on or before February 12, 2010, either by initial issuance or transfer. Without the rule that is the subject of this action, for all QS acquired on or before February 12, 2010, an initial individual recipient of QS could still use a hired master to harvest that QS from a vessel in which the QS holder had only a temporary ownership interest. With the rule that is the subject of this action, except for situations of total or temporary vessel loss, an initial individual QS holder who wishes an exemption from the owner-on-board requirement for any QS that the individual holds must maintain a minimum 20-percent ownership interest in the vessel that the hired master will use for the 12-month period before the individual applies to use a hired master. The effect of this rule is separate and distinct from the action that was the subject of this comment.

Comment 4. The proposed rule does very little to promote the movement of QS from the first-generation fishing families to Community Quota Entities or second-generation fishermen.

Response. The rule gives initial individual recipients of QS a choice among three responses to this rule: (1) The individual QS holder harvests his or her IFQ by being on board the vessel; (2) the individual QS holder harvests his or her IFQ through a hired master and maintains a 20-percent ownership interest in the vessel for the 12 months before hiring the master; or (3) the individual QS holder transfers his or her QS. Any of these actions by individual QS holders represents an improvement over the status quo and furthers an objective of the Council in taking this action.

To the extent that individual QS holders choose the first alternative, and harvest their IFQ by being on board the vessel, this furthers the Council's objective of compliance with the owner-

on-board requirement in the IFQ fisheries. To the extent that individual QS holders choose the second alternative, and maintain the required vessel ownership interest, this promotes the Council's objective that QS holders have a meaningful interest in the vessel from which their IFQ is fished as a condition for using a hired master. To the extent that individual QS holders choose the third alternative, and transfer QS, this increases the opportunity for Community Quota Entities (CQEs) and individuals with substantial crew experience to acquire QS because CQEs and individuals with substantial crew experience meet the requirements in regulation to receive QS by transfer. NMFS notes that if a CQE acquires QS, the QS will be fished by a resident of a small, rural community that the CQE represents. NMFS examines CQEs further in Comment 10.

Comment 5. The proposed rule is like requiring a homeowner to own a new home for 12 months before moving into it.

Response. Under this rule, an initial individual recipient of QS may fish his or her IFQ from any vessel, including a vessel in which the individual has no ownership interest, as long as the individual is on board the vessel for the entire trip and landing. Thus, for the first 12 months that an individual owns a 20-percent interest in a vessel, the individual can fish his or her IFQ from that vessel, as long as the individual is on board the vessel. If the individual QS holder does not want to harvest IFQ from a vessel he or she has owned for 12 months, and does not want to be on board a new vessel, the individual has a transferable asset, namely QS, an asset that the individual received as an initial recipient and that the individual may transfer for value.

Comment 6. The proposed rule makes it difficult for QS holders to acquire a new vessel by purchase or by construction because the QS holder cannot use that new vessel to fish his or her IFQ for 12 months. The proposed rule makes it difficult to obtain financing for a new vessel because the QS holder cannot use that new vessel to fish his or her IFQ for 12 months.

Response. An initial individual recipient of QS may fish his or her IFQ from any vessel for any reason, as long as the individual QS holder is on board the vessel during the trip and landing. If the ability to use a vessel immediately to fish IFQ is a key to financing purchase of a new vessel, the individual QS holder can use a new vessel immediately by being on board the vessel during the harvest of the IFQ.

If the individual is unwilling or unable to be on board the vessel, this suggests that the individual has ceased active participation in the fishery. When an individual is no longer an active participant in the IFQ fishery, the Council intended that person would transfer his or her QS and, in that way, allow future generations to participate in the commercial harvest of Pacific halibut and sablefish in Alaska. If the proposed rule causes QS holders who are no longer active fishermen to divest themselves of QS, that is what the Council intended.

Comment 7. The proposed rule is an attempt to cause well-meaning fishing families to sell out.

Response. NMFS disagrees. As noted, the proposed rule gives initial individual recipients of QS a choice: (1) Harvest their IFQ by being on board the vessel; (2) harvest their IFQ through a hired master and maintain a 20-percent ownership interest in the vessel for the 12 months prior to using the hired master; (3) transfer their QS. If the QS holder chooses to transfer QS, the QS holder can transfer it to a family member, as long as the family member is eligible to receive QS by transfer. To receive QS by transfer, an individual either must have initially received QS or must have 150 days experience working as part of a harvesting crew in any U.S. commercial fishery, a requirement that favors fishing families. The QS holder may transfer their QS to a family member on terms that the QS holder chooses: as a gift, at a discounted price, or at full-market value.

Comment 8. The proposed rule discriminates against initial recipients. The proposed rule does not apply to second generation QS holders.

Response. The commenter is correct that the proposed rule only applies to first-generation QS holders, or initial individual recipients of QS, because initial individual recipients are exempt from the owner-on-board requirement by owning the vessel from which their IFQ will be harvested. This rule tightens the vessel ownership exemption by requiring that initial individual recipients own the vessel for 12 months prior to using a hired master. Individuals who are second-generation QS holders are never exempt from the owner-on-board requirement based on vessel ownership. Therefore, the proposed rule does not, and actually could not, apply to them.

Comment 9. The proposed rule is an attempt to prevent QS holders from marketing quota to different vessels.

Response. NMFS agrees that the rule seeks to prevent individuals from marketing their QS to different vessels if, by that, the commenter means that a QS holder will use hired masters to harvest IFQ on a number of different vessels in which the QS holder has only a short-term ownership interest, such as an ownership interest for only the duration of the IFQ trip. If an individual QS holder has a substantial, long-term interest in a vessel, which the Council specified as a 20-percent ownership interest for 12 months, the proposed rule allows the QS holder to "market" his or her QS to that vessel.

Comment 10. The proposed rule does not apply to Community Development Quota (CDQ) groups or Community Quota Entities (CQEs). CDQ groups and CQEs have an unfair financial advantage over other QS holders because CDQ groups and CQEs are tax-exempt.

Response. The CDQ Program was established in 1992 (57 FR 54936, November 23, 1992). The CDQ groups are six non-profit corporations that represent one or more communities in western Alaska. CDQ groups do not receive QS. CDQ groups do receive an annual allocation of Pacific halibut, sablefish, and other species in the BSAI. CDQ groups use the revenue derived from the harvest of their fisheries allocations to fund economic development activities and provide employment opportunities for the communities they represent (77 FR 6492, February 8, 2012).

CQEs are non-profit corporations that may acquire halibut QS by transfer. CQEs represent one or more small, rural communities that are located adjacent to the coast of the Gulf of Alaska. Since NMFS began issuing QS in 1995, the amount of QS and the number of resident QS holders has declined substantially in these communities. The purpose of CQEs is to minimize the adverse, economic impact of the IFQ Program on these communities and to provide the opportunity for the sustained participation of these communities in the IFQ fisheries. NMFS adopted the CQE rule in 2004 (69 FR 23681, April 30, 2004). If a CQE acquires QS, it must harvest its IFQ through a resident of the community that the CQE represents (50 CFR 679.41(c)(10)). Twenty-nine CQEs have formed representing 30 communities. Only two CQEs hold any QS. For additional detail on CQE holdings, see *https://alaskafisheries.noaa.gov/ram/.*

The commenter is correct that this rule does not apply to CDQ groups and CQEs. This rule applies to individual QS holders to prevent these QS holders from using hired masters to harvest their QS based on short-term ownership of vessels that the hired masters are using. CDQ groups and CQEs are non-profit

corporations. CDQ groups must use hired masters to harvest fish on their behalf. CQEs must lease their IFQ to community residents. Neither entity is causing the problem that this rule seeks to solve.

The commenter is also correct that CDQ groups and CQEs are non-profit corporations that are tax-exempt according to the provisions in Federal and State laws. The question of tax exemption for non-profit corporations is beyond the scope of this rule.

NMFS notes that this rule applies to individual QS holders who received QS as initial recipients and who may transfer that QS on financial terms of their choosing. CDQ groups do not receive a transferable asset; they can harvest their allocation every year but they cannot sell or transfer the allocation. CQEs do hold QS and may transfer it, subject to restrictions. But CQEs only acquire QS by purchase.

Comment 11. The proposed rule at § 679.42(i)(6) limits the ability of a QS holder to use a hired master if the QS holder lost their prior vessel due to any act of negligence by the vessel owner or the vessel owner's agent. Most vessel groundings are the result of some level of negligence. A common cause for grounding is that a skipper or a crew member falls asleep during wheel watches. It would be difficult for NMFS to determine negligence.

Response. NMFS agrees with the action requested by this comment and eliminates the negligence limitation in § 679.42(i)(6) in the final rule. NMFS concludes that the rule, as proposed, did not comport with Council intent. NMFS explains the basis for this conclusion in the section, "Changes From the Proposed Rule."

Comment 12. The proposed rule will encourage vessel owners to continue fishing in smaller, unsafe vessels because the cost of having a new vessel without any revenue for 12 months could be prohibitive.

Response. NMFS does not believe that the rule will result in a less safe IFQ fleet. First, all vessels are subject to safety regulations. Second, a primary benefit of the IFQ program is to promote safety by decreasing the race for fish. A QS holder has a specific amount of halibut or sablefish that the QS holder is authorized to harvest throughout the season and therefore does not need to fish in poor weather. Third, the commenter does not provide evidence that the status quo is leading QS holders to invest in newer, safer, or larger IFQ vessels. The problem that led to this rule was that the Council concluded that some QS holders were claiming exemption from the owner-on-board requirement by acquiring an ownership interest in a vessel for only the duration of the IFQ trip. It does not seem likely that short-term ownership of a vessel would motivate a QS holder to invest in improvements to the vessel or to invest in a new vessel. In fact, the opposite seems more likely, namely that if a QS holder can only be exempt from the owner-on-board requirement by owning an interest in a vessel for 12 months, then the QS holder may be more interested in upgrading the vessel.

Most importantly, the rule does not prevent a QS holder from owning a newer, bigger, or safer vessel and immediately using that vessel to harvest his or her IFQ. An individual QS holder can immediately use a new vessel to harvest his or her IFQ, and immediately get revenue from the new vessel, as long as the individual QS holder is on board the vessel for the IFQ trip and landing.

Comment 13. The proposed rule is based on a false assumption that a vessel lease cannot be a long-term arrangement—extending for 12 months or more—that shows as meaningful a commitment to the fishery as a 20-percent ownership of a vessel.

Response. From the inception of the IFQ Program, an individual QS holder had to either fish his or her own IFQ permit by being on board the vessel or use a hired master who fished from a vessel that the QS holder owned. A vessel leased by the QS holder has never been a sufficient basis for the QS holder to use a hired master in the IFQ Program.

NMFS acknowledges it is possible that a QS holder could lease a vessel and that the vessel owner and the QS holder would agree that the QS holder would pay expenses that a vessel owner normally would. The commenter does not provide any evidence that this is a common practice and any rationale why a QS holder would want to lease a vessel and take on expenses, such as repairs, that contribute to the long-term life of the vessel beyond the lease period. However, if a QS holder has leased a vessel on financial terms that more closely resemble a 20-percent ownership interest for 12 months, the final rule gives the QS holder 13 months to choose whether to be on board the vessel during the IFQ harvest, convert the lease to an ownership interest, or transfer the QS.

Comment 14. Under the proposed rule, a QS holder might have an ownership interest in a vessel that was a paper transaction only.

Response. The commenter is correct that this rule only requires that an individual QS holder prove the required 12-month period of vessel ownership as reflected in the formal records of the title to the vessel. The QS holder does not have to submit details to NMFS of the financial transactions that led to the ownership interest. The Council, however, believes that imposing a 12-month period of vessel ownership, coupled with the requirement that the QS holder prove ownership by standardized documentation, decreases the likelihood that QS holders will have an ownership interest on "paper only."

The Council took this action because it believed that some individual QS holders owned a 20-percent interest in the vessel only for the duration of a trip as a way to claim an exemption from the owner-on-board requirement. The Council concluded that if the QS holder had to own a 20-percent interest for 12 months, the QS holder would more likely have an actual, meaningful ownership interest in the vessel. This rule increases the likelihood that a QS holder would be interested in the condition of the vessel for at least a 12-month period, not merely for the duration of the IFQ trip.

The Council also recommended, and NMFS adopted, a regulation that QS holders who wish an exemption from the owner-on-board requirement must submit formal documents showing a minimum 20-percent ownership interest in the vessel from which their IFQ would be fished: an United States Coast Guard Abstract of Title for federally-documented vessels, a State of Alaska vessel license or registration for State-documented vessels (72 FR 44795, August 9, 2007). This means that the QS holder's claimed ownership interest in the vessel cannot be proven merely by a verbal agreement or informal written agreement between the QS holder and other owner(s) of the vessel. The QS holder's interest must be reflected in formal vessel ownership documents maintained by the Federal or State government.

Comment 15. If a QS holder experienced an engine failure near the end of the season, and the repairs would only take 30 days, the QS holder would lose the rest of the fishery for that year.

Response. The commenter is correct that if an individual QS holder's vessel has an accident that will take less than 60 days to repair, then the individual QS holder may not hire a master to fish his or her IFQ on a vessel that the individual QS holder has not owned for 12 months. As the commenter implies, the QS holder can harvest his or her IFQ any time during the year and this scenario is only a potential problem if the engine failure occurred near the end of the season. In that situation, the individual QS holder could finish out

the season with any vessel as long as the individual QS holder was on board the vessel during the harvest of the QS holder's IFQ.

Comment 16. The proposed rule underestimates the documentation and time required to prove ownership of a vessel by other types of documentation.

Response. Under the current regulation, a QS holder must prove a minimum 20-percent ownership of a vessel by standard documents that a vessel owner should have fairly easily available: an Abstract of Title for a federally documented vessel and a State of Alaska vessel license or registration for a State-licensed vessel. If those documents show a minimum of 20-percent ownership for the past 12 months, the QS holder need not submit other types of documentation. If, for any reason, the standard documents do not show that the QS holder has a 20-percent ownership interest for at least 12 months, the QS holder must submit additional documentation.

The need to submit other types of documentation seems most likely to occur when an individual QS holder owns a vessel with other persons. NMFS hopes, and expects, that most QS holders would have formalized their ownership arrangements with other persons in documents that exist independently from the application by the QS holder to use a hired master. Proving vessel ownership should not require creating documents but merely retrieving them.

But since retrieving documents takes time, and that time should be included in the estimate of compliance time, NMFS agrees that the time estimate in the proposed rule was too low. The time estimate in the proposed rule was an estimate of an average of 30 minutes to fill out the form, "Application for IFQ/CDQ Hired Master Permit." NMFS agrees that the average time to fill out the form would likely be more than 30 minutes. NMFS revises its estimate to the average time to fill out the Application for IFQ/CDQ Hired Master Permit from 30 minutes to 60 minutes.

Comment 17. Corporate owners of vessels do not have the ability to be on board the vessel and thus have no alternative to fishing their IFQ from a vessel that they have owned for the 12 months prior to the harvest. Corporate owners could not upgrade to a new vessel and use it immediately to fish their IFQ. Corporate owners would have to maintain a 20-percent interest in a second vessel in case they experienced a problem with their first vessel that was not covered by this rule.

Response. NMFS agrees with this comment. NMFS withdraws the changes in the proposed rule to § 679.42(j), which is the regulation that governs the use of QS held by corporations and other non-individual entities. NMFS concludes that the Council did not intend to apply the 12-month vessel ownership requirement to the use of QS by non-individual entities. NMFS explains the basis for this conclusion in the section, "Changes From the Proposed Rule."

Comment 18. The proposed rule makes it harder for new entrants, such as IFQ crewmembers, to get into the fishery. Under the current rules, new entrants to the halibut and sablefish fishery can buy a vessel, convey a 20-percent interest to an initial recipient, and make money immediately by harvesting IFQ under a hired skipper permit. A new entrant into the IFQ fisheries cannot afford to purchase a vessel and own the vessel for 12 months, but not get any money from the use of the vessel to harvest IFQs for 12 months.

Response. NMFS disagrees that the overall effect of the rule will make it harder for new entrants, such as IFQ crew members, to enter the fishery. First, the Analysis for this action does not show that the status quo management is promoting new entrants into the IFQ fisheries. In the 12-year period of 1998 to 2010, the annual fishable IFQ halibut pounds held by initial individual recipients decreased only slightly from 43 percent to 40 percent of the total IFQ halibut pool. Over the same period, the annual fishable IFQ sablefish pounds held by initial individual recipients decreased only slightly from 28 percent to 22 percent of the total IFQ sablefish pool (Analysis, Table 6; see **ADDRESSES**). Under current regulations, new entrants are acquiring QS at a very slow rate.

Second, the final rule still allows QS holders to form agreements with individuals seeking entry into the IFQ fisheries. The commenter states that the status quo promotes the entry of new persons into the IFQ fisheries by allowing new entrants to purchase vessels. The commenter is correct that under the status quo, a person who owns a vessel may agree with an individual QS holder to fish their IFQ immediately, without the QS holder being on board the vessel, as long as the QS holder acquires a 20-percent interest in the vessel for the duration of the IFQ trip. The commenter is also correct that after the final rule goes into effect, individual QS holders will not be able to receive an exemption from the owner-on-board requirement, unless they maintain an ownership interest in the vessel for the 12 months before they want the exemption.

After the final rule goes into effect, an individual seeking entry into the IFQ fishery by buying a vessel first, rather than buying QS first, will still be able to offer a QS holder the immediate use of a vessel to harvest IFQ, but only if the QS holder is on board the vessel for the harvest. The rule will not put any individual seeking entry into the IFQ fishery at a competitive disadvantage: No vessel owner will be able to offer an individual QS holder an immediate exemption from the owner-on-board requirement. Except for vessel loss situations, all individual QS holders will have to wait 12 months to claim an exemption from the owner-on-board requirement.

When faced with the choice between (1) being on board the vessel for the harvest of their QS, (2) maintaining a 20-percent ownership interest in a vessel for 12 months, or (3) transferring their QS, some QS holders will choose to be on board the vessel. Some QS holders will choose to maintain a 20-percent interest in a vessel for 12 months as a way of preserving their eligibility for an exemption from the owner-on-board requirement. This will result in an increased demand by QS holders for longer-term ownership agreements with individuals who are seeking entry into the IFQ fisheries and who own vessels suitable for fishing IFQ. Some QS holders will choose the third alternative and transfer their QS. This will result in the increased availability of QS to persons seeking entry into the IFQ fisheries.

Comment 19. The proposed rule is an attempt by Alaskans to make non-Alaskans sell out.

Response. The 12-month vessel ownership requirement in this rule applies to all initial individual recipients of QS who wish to use a hired master to harvest their IFQ. The proposed rule applies equally to residents and non-residents of Alaska and does not discriminate based on residency.

Comment 20. The proposed rule would drive down prices for used vessels and weaken construction of new vessels.

Response. With regard to the claim that the proposed rule would drive down the price of used vessels, the commenter does not clearly explain why he believes this would happen and why it would be bad if it did happen. It seems that the commenter is asserting that the proposed rule will cause a decrease in demand for vessels to harvest IFQ, and therefore a decrease in the price of used vessels, because QS

holders will collectively use fewer vessels to harvest their IFQ allotments.

NMFS does not believe that this is a problem with the proposed rule for four reasons. First, it is not NMFS's responsibility to manage the IFQ fisheries to maintain any particular price level for IFQ vessels. When vessel prices decrease, this helps people who want to buy vessels and enter the fishery. When vessel prices increase, this helps people who want to sell their vessels. It is NMFS's responsibility to establish the rules for the issuance, use, and transfer of QS through the Council process in the Halibut Act and the Magnuson-Stevens Act. Within those rules, the market establishes the price of QS and the market establishes the price of vessels that harvest QS.

Second, the rule established by this regulation is that QS holders cannot use a hired master by "owning" a 20-percent interest in a vessel for the duration of a trip, "owning" a 20-percent interest in another vessel for the duration of a trip, "owning" a 20-percent interest in another vessel for the duration of a trip, and so forth. Under this rule, a QS holder must now own one vessel for 12 months before the QS holder can use a hired master to fish QS from that vessel. If this rule decreases the total number of vessels that harvest IFQ allotments, that means that QS holders were using hired masters on several vessels during a fishing year, which is the practice that the Council action and this rule seeks to stop.

Third, this rule may result in some QS holders transferring their QS. To the extent that this occurs, the rule will result in more QS on the market and could increase the number of vessels harvesting IFQ.

Finally, NMFS does not anticipate that this rule will have a significant effect on IFQ vessel prices upward or downward. The market determines the price of vessels that harvest IFQ as a result of the overall demand for these vessels and the overall supply of these vessels. This rule affects, at most, vessels that harvest 40 percent of the halibut QS pool and 32 percent of the sablefish QS pool, the percent of the QS pool held by initial individual recipients. The restrictions in this rule thus will not affect the demand for vessels that harvest 60 percent of the halibut QS pool and 68 percent of the sablefish QS pool. The restrictions in this rule do not affect other factors that determine price of vessels and the supply of vessels, such as the price of halibut, the price of sablefish, the amount of the TAC for each species, the extent to which IFQ vessels can harvest other species, the availability and terms of financing, and general economic conditions.

As for the assertion that the proposed rule will weaken the construction of new vessels, the commenter offers no evidence that the status quo is leading to the construction of new vessels to participate in the IFQ fisheries. Under the final rule, an individual QS holder can arrange for construction of a vessel and use the vessel to fish IFQ as long as the individual QS holder is on board the vessel during the harvest of the IFQ.

For NMFS's response to other comments involving new vessels, upgrading vessels and new entrants into the IFQ fisheries, see NMFS's response to Comments 6, 12, and 18.

Comment 21. The problem—short-term ownership of vessels so the QS holders do not have to be on board the vessel—has never been quantified. The "problem" is a personal issue brought forth by two Alaskans with strong political ties.

Response. NMFS disagrees that the 12-month vessel ownership requirement in this rule is the result of personal issues rather than policy judgments. In recommending the 12-month ownership requirement, the Council was responding to genuine, longstanding policy concerns and data supporting those concerns. As described in the preamble to the proposed rule, from the beginning of the IFQ Program, the Council has sought to enforce an important feature of the program, namely if a QS holder wishes to harvest his or her IFQ through a hired master, the QS must have an ownership interest in the vessel which the hired master will use. The preamble also describes the actions that the Council has recommended, and that NMFS has adopted, to ensure that if a QS holder takes advantage of the exemption from the owner-on-board requirement, the QS holder's ownership interest in the vessel is actual and meaningful (77 FR 65843, October 31, 2012). This rule establishes the benchmark for a meaningful and actual ownership interest in a vessel, namely the QS holder maintains a continuous 20-percent ownership interest in the vessel for 12 months prior to when the QS holder wishes to use the hired master.

The preamble to the proposed rule described the data supporting the Council's concerns: "Over the course of the IFQ Program, the number of initial QS holders who may hire a master has declined through attrition, while the reliance on hired masters by those QS holders has increased. While this may appear contradictory, it demonstrates that initial recipients who used to be active in the fishery are retired from active participation and instead are hiring skippers to fish their IFQ permits" (77 FR 65846, October 31, 2012). The Analysis for this action shows that for the IFQ halibut fishery, from 1998 to 2010, the number of individual QS holders that had landings and could hire masters declined from 1,005 individual QS holders to 696 individual QS holders, a decline of approximately 30 percent, but the number of individual QS holders that had landings and did hire masters increased from 110 to 216, an increase of approximately 100 percent (Analysis, Table 3; see **ADDRESSES**). For the IFQ sablefish fishery, from 1998 to 2010, the number of individual QS holders that had landings and could hire masters declined from 232 to 151, a decline of 35 percent, but the number of individual QS holders that had landings and did hire masters increased from 46 to 92, an increase of 100 percent. (Analysis, Table 4; see **ADDRESSES**). This data shows that the number of individual QS holders is declining but the remaining individual QS holders are increasingly using hired masters.

Comment 22. The alleged problem—sham ownership of vessels fishing IFQ without the QS holder on board the vessel—will solve itself because all initial recipients will eventually die.

Response. NMFS agrees that in the long run this problem will be resolved because all initial individual recipients of QS will eventually leave the fishery because of voluntary retirement or death and eventually all QS will be held by individuals who are subject to the owner-on-board requirement. However, initial individual recipients of QS still hold a considerable amount of QS. As of 2010, initial individual recipients held 40 percent of the halibut QS pool and 32 percent the sablefish QS pool (Analysis, Table 3, Table 4; see **ADDRESSES**).

Under current regulation, these QS holders must have a 20-percent ownership interest in the vessel that a hired master uses to fish their IFQ, but these QS holders may only own a 20-percent interest in the vessel for the duration of a trip. The Council recommended this rule to require that, if initial recipients of QS wish to continue to hire masters to fish their QS, they must maintain a longer-term ownership interest—namely 12 months—in the vessel that the hired master will use to fish their IFQ.

OMB Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number

assigned by the Director, OMB, for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule revises and adds data elements within a collection-of-information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the sections resulting from this final rule. In addition, corrections and omissions from previous rules are added.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Halibut Act, the GOA groundfish FMP, the BSAI groundfish FMP, the national standards and other provisions of the Magnuson-Stevens Act, and other applicable laws.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), the Assistant Administrator of Fisheries finds good cause to waive prior notice and opportunity for public comment otherwise required by the section for the revisions to registered buyer reporting requirements found at § 679.5(l)(7)(i) that are implemented by this final rule. NOAA finds that prior notice and opportunity for public comment are unnecessary because the revisions to § 679.5(l)(7)(i) do not substantively change the recordkeeping and reporting requirements specified in that section. The revisions correct an inadvertent error made by a final rule recently promulgated by NOAA as described in the "Changes from Proposed to Final Rule" section of the preamble above. Prior notice and comment are also unnecessary because the public had an opportunity to comment on the registered buyer reporting requirements during the observer program rule-making. Prior notice and comment are also contrary to the public interest because immediate publication reduces potential public confusion associated with the catch-sharing plan rule's inadvertent error in registered buyer reporting requirements. Because prior notice and opportunity for public comment are not required by 5 U.S.C. 553(b)(B), or any other law, for the regulatory revision at § 679.5(l)(7)(i), the analytical requirements of the Regulatory Flexibility Act, 5. U.S.C. 601 *et. seq.* are inapplicable.

Regulatory Impact Review

The Council and NMFS conducted a Regulatory Impact Review (RIR) pursuant to Executive Order 12866. NMFS published a summary of the RIR in the preamble to the proposed rule (77 FR 65843, October 31, 2012). The RIR assessed the costs and benefits of Alternative 1 and Alternative 2. Alternative 1 was no action or the status quo. Alternative 2 was imposition of the 12-month vessel ownership requirement on initial individual QS holders as a condition of their using a hired master and an exemption from the 12-month vessel ownership requirement in situations of permanent vessel loss or temporary vessel disablement. The Council concluded that Alternative 2 is likely to result in net benefits to the nation and recommended Alternative 2. NMFS published the RIR with the Initial Regulatory Flexibility Analysis (IRFA) and in this rule refers to the RIR/IRFA as the Analysis. A copy of the Analysis is available from NMFS (see **ADDRESSES**). The NMFS Assistant Administrator has determined that this rule is not significant for purposes of Executive Order 12866.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. This section shall be the Small Entity Compliance Guide for this rule.

This rule modifies § 679.42(i) of part 679, Title 50. The full text of 50 CFR 679.42 and all IFQ regulations is available at *http://www.ecfr.gov.*

This rule applies to individuals who were initial recipients of catcher vessel QS, namely QS in Category B, C, or D, with one geographical exception. This rule does not apply to catcher vessel QS that initial individual recipients received in what is commonly known as Southeast Alaska: it does not apply to QS issued for halibut in IFQ regulatory area 2C and sablefish in the IFQ regulatory area east of 140° long. This rule does not apply to initial recipients of QS that were non-individual entities, such as corporations, partnerships, or associations. This rule does not apply to initial recipients of catcher processor QS, which is Category A QS.

To harvest halibut or sablefish in a fishing year, an initial individual recipient of QS in Category B, C, or D receives an annual IFQ permit. The QS holder/IFQ permit holder must be present on board the vessel at all times during the fishing trip and during the landing which occurs pursuant to the authority of the IFQ permit, except if IFQ regulations authorize a hired master to harvest and land IFQ species without the QS holder being on board the vessel. If a QS holder wishes to use a hired master to harvest his or her IFQ, the QS holder must apply for, and receive, a hired master permit that will authorize the hired master to harvest the IFQ belonging to the QS holder. The Application for IFQ/CDQ Hired Master Permit and all other IFQ applications are on the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/ram/ifq.htm.*

Under this rule, an individual QS holder may use a hired master to harvest his or her IFQ, if the QS holder was an initial individual recipient of QS and if the QS holder continuously owned a minimum 20-percent ownership interest in the vessel that the hired vessel will use to harvest the IFQ for 12 months prior to the QS holder's application for a hired master permit.

An individual QS holder may claim an ownership interest in a documented or non-documented vessel. A documented vessel means a vessel documented with the United States Coast Guard in accord with Federal requirements. A non-documented vessel means a vessel that is not federally documented but is documented with the State of Alaska.

If the hired master will use a documented vessel to harvest the IFQ belonging to the QS holder, the QS holder must submit, with the application for a hired master permit, documentation showing that the QS holder has owned a minimum 20-percent ownership interest in the vessel for the 12 months before the application. For a documented vessel, the QS holder must submit an Abstract of Title showing that the QS holder is an owner of the vessel. If the Abstract of Title does not show that the QS holder owns at least a 20-percent ownership interest in the vessel or does not show that the QS holder has owned a 20-percent ownership interest for 12 months prior to the application, the QS holder must submit additional written documentation to prove either the 20-percent vessel ownership interest or the 12-month ownership period.

If the hired master will use a non-documented vessel to harvest the IFQ belonging to the individual QS holder, the individual QS holder must submit, with the application for a hired master permit, a State of Alaska vessel license or vessel registration that lists the QS holder as an owner of the vessel. If the State of Alaska vessel license or vessel

registration does not show that the QS holder owns at least a 20-percent ownership interest in the vessel that the hired master will use for the 12-month period prior to the application by the QS holder for a hired master permit, the QS holder must submit additional documentation.

Suspension of 12-Month Vessel Ownership Requirement if QS Holder Experiences a Total Physical Loss of a Vessel or Irreparable Damage to a Vessel

This rule provides a temporary suspension of the 12-month vessel ownership requirement if an individual QS holder experiences a total, physical loss of a vessel or irreparable damage to a vessel and the vessel has been used to harvest IFQ belonging to the QS holder. If an individual QS holder experiences a total loss of a vessel, either because the vessel is physically lost or irreparably damaged, and wishes an exemption from the owner-on-board requirement on that basis, the individual QS holder must completely fill out the sections of the Application for IFQ/CDQ Hired Master Permit that pertain to the total loss of a vessel or irreparable damage to a vessel. Through the Application, and the materials submitted with it, the individual QS holder must show that he or she meets the following requirements:

1. The total loss or the irreparable damage to the vessel was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the individual QS holder or agent of the individual QS holder;

2. The vessel that was lost or irreparably damaged was a commercial fishing vessel that had been previously used to harvest halibut IFQ or sablefish IFQ of the individual QS holder who is applying for a hired master permit;

3. The individual QS holder submits to NMFS a copy of the USCG Form 2692 that has been submitted to the United States Coast Guard. Form 2692 is "Report of Marine Casualty." An operator of a commercial vessel operating in the navigable waters of the United States is required to file Form 2692 any time that a vessel is involved in an unintended grounding; a loss of life; an injury that requires professional medical treatment; an occurrence causing property damage in excess of $25,000; an occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route; and other situations as specified in 46 CFR 4.05–1. Form 2692 and instructions to fill it out are at *http://marineinvestigations.us;*

4. The individual QS holder is applying to use a hired master on a vessel in which the individual QS holder has a minimum 20-percent ownership interest as of the date of the application by the individual QS holder for a hired master permit.

If the applicant meets the requirements for issuance of a hired master permit based on total loss or irreparable damage to a vessel, the individual QS holder may use a hired master until December 31 of the year following the total loss or irreparable damage.

Suspension of 12-Month Vessel Ownership Requirement if Temporary Disablement of a Vessel

If an individual QS holder experiences a temporary disablement of a vessel, and wishes an exemption from the owner-on-board requirement, the individual QS holder must completely fill out the sections of the Application for IFQ/CDQ Hired Master Permit that pertain to the temporary disablement of a vessel. Through the application, and materials submitted with it, the individual QS holder must show that he or she meets the following requirements:

1. The temporary disablement of the vessel results from repairs required by an accident that materially and adversely affected the vessel's seaworthiness or fitness for service;

2. The repairs from the accident require at least 60 days to be completed;

3. The disabled vessel is a commercial fishing vessel that was previously used to harvest halibut IFQ or sablefish IFQ of the individual QS holder who is applying for a hired master permit;

4. The individual QS holder submits to NMFS a copy of the USCG Form 2692 that has been submitted to the United States Coast Guard. Form 2692 is "Report of Marine Casualty." An operator of a commercial vessel operating in the navigable waters of the United States is required to file Form 2692 any time that a vessel is involved in an occurrence that materially and adversely affecting the vessel's seaworthiness or fitness for service, as specified in 46 CFR 4.05–1. Form 2692 and instructions to fill it out are available at *http://marineinvestigations.us;*

5. The individual QS holder is applying to use a hired master on a vessel in which the individual QS holder has a minimum 20-percent ownership interest as of the date of the application by the individual QS holder for a hired master permit.

An applicant will need to submit documentation to show that the repairs required by the accident require at least 60 days to be completed. That documentation will typically be an estimate or statement from the business entity that will conduct the repairs.

If the applicant meets the requirements for a hired master permit based on temporary disablement of a vessel, the individual QS holder may use a hired master until December 31 of the year following the temporary disablement of the vessel.

Review of Application for a Hired Master Permit

NMFS will review all applications for a hired master permit. If NMFS concludes that the applicant meets the requirements for a hired master permit, NMFS will approve the Application for IFQ/CDQ Hired Master Permit and issue a hired master permit to the individual specified on the application.

If NMFS concludes that it cannot approve the application based on the application and the materials submitted with the application, NMFS will provide the applicant with an opportunity to submit additional information or submit a revised application. NMFS will review any additional submissions by the applicant. If NMFS still concludes that the applicant does not meet the requirements of a hired master permit, NMFS will provide the applicant with an Initial Administrative Determination (IAD). The IAD will explain the basis for the denial of the application and will explain how the applicant may appeal the denial of the application.

Final Regulatory Flexibility Analysis (FRFA)

The Regulatory Flexibility Act (RFA) contains the requirements for the FRFA in section 604(a)(1) through (5) of the RFA. The FRFA must contain:

1. A succinct statement of the need for, and objectives of, the rule;

2. A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

3. A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;

4. A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to

the requirement and the type of professional skills necessary for preparation of the report or record; and

5. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

NMFS prepared an Initial Review Flexibility Analysis (IRFA) that addressed the requirements described in section 603(b)(1) through (5) of the RFA. This FRFA incorporates the IRFA and the summary of the IRFA in the proposed rule (77 FR 65843, October 31, 2012). NMFS published the IRFA with the Regulatory Impact Review on January 5, 2012. The RIR/IRFA or Analysis is available at the NMFS Alaska Region Web site: *http://alaskafisheries.noaa.gov.*

A Succinct Statement of the Need for, and Objectives of, the Rule

The objective of this rule is to amend halibut and sablefish IFQ regulations to implement Council intent for initial individual recipients of QS who wish to exercise the hired skipper privilege. The need for, and objectives of, this rule are further explained in the preamble to the proposed rule in the sections, "The Need for Action" and "The Proposed Action." (77 FR 65843, October 31, 2012).

Summary of Significant Issues Raised During Public Comment

NMFS did not receive any public comments that were explicitly directed to the Analysis (RIR/IRFA). But several comments objected to the proposed rule on the grounds that, short of a QS holder experiencing the a total or temporary loss of a vessel, the proposed rule would prevent a QS holder from using a hired master to fish their IFQ, unless the hired master was using a vessel that the QS holder had owned for 12 months. One comment on the proposed rule stated that the proposed rule would have a special impact on non-individual QS holders, namely QS holders that are corporations, partnerships, associations, or any other type of non-individual entity, because these QS holders do not have the option of fishing their QS themselves rather than using a hired master.

The comments on the proposed rule were not accurate with respect to individual QS holders because under the proposed rule, individual QS holders can use any vessel to harvest their IFQ as long as they are on board the vessel. The comments were accurate with respect to QS held by non-individual entities because, under the proposed rule, a non-individual entity such as a corporation or a partnership does not have the option of getting on the vessel and fishing their QS themselves.

These comments implicitly raised an issue with the Analysis because Section 5 of the Analysis explicitly stated that the Council action imposed the 12-month ownership requirement on individual QS holders and did not impose the 12-month ownership requirement on non-individual QS holders, such as corporations, partnerships, or associations. Section 5 of the Analysis also stated that the Analysis did not analyze the effect of imposing the 12-month ownership requirement on non-individual entities. The Analysis also described the regulated entities as individuals only, namely the 1,307 individual holders of catcher vessel QS eligible to hire skippers in 2010 that may hire skippers (Analysis, Table 2; see **ADDRESSES**). The Classification Section in the proposed rule described the regulated entities as individual QS holders only (77 FR 65843, October 31, 2012). As a result of these public comments, NMFS realized that it was an error for the proposed rule to apply the 12-month ownership requirement to non-individual entities. NMFS therefore eliminated those provisions in the final rule. NMFS provides further explanation of this change in the section of this preamble, "Changes From the Proposed Rule."

Number and Description of Small Entities Regulated by the Final Rule

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. On June 20, 2013, the SBA issued a final rule revising the small business size standards for several industries effective July 22, 2013. (78 FR 37398, June 20, 2013). The rule increased the size standard for Finfish Fishing from $ 4.0 to 19.0 million, Shellfish Fishing from $ 4.0 to 5.0 million, and Other Marine Fishing from $4.0 to 7.0 million. Id. at 37400 (Table 1).

Pursuant to the Regulatory Flexibility Act, and prior to SBA's June 20 final rule, a final regulatory flexibility analysis was developed for this action using SBA's former size standards. NMFS has reviewed the analyses prepared for this action in light of the new size standards and determined that the new size standards do not affect the analyses prepared for this action. Under the former, lower, size standards, all entities subject to this action were considered small entities; thus they all would continue to be considered small under the new standards.

The "universe" of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to the directly regulated by the action. This action directly regulates individuals who were initial recipients of catcher vessel QS and who still hold catcher vessel QS. In 2010, there were a total of 1,307 initial individual recipients of catcher vessel QS: 1,056 halibut QS holders and 251 sablefish QS holders (Analysis, Table 2; see **ADDRESSES**). Under current regulations, these individual QS holders may use a hired master to harvest their IFQ if the individual QS holder owns a 20-percent interest in the vessel that the hired master uses to harvest the IFQ. This rule adds a 12-month ownership period to the vessel ownership provision. Under the final rule, an initial individual QS holder may use a hired master to harvest their IFQ if the individual QS holder owns a 20-percent ownership interest in the vessel for the 12 months prior to the application by the QS holder to use a hired master.

Although, under the current regulation, all initial individual QS holders may hire masters based on vessel ownership, not all individual QS holders do hire masters. The Analysis contained data on how many individual QS holders had landings and did hire masters in 2010. Looking at halibut QS holders first, 665 individual QS holders had landings under an IFQ permit; 216 of these individual QS holders, or 32 percent, used hired masters (Analysis, Table 3; see **ADDRESSES**). Turning to sablefish QS holders, 151 individual QS holders had landings under an IFQ permit; 92 of these individual QS holders, or 61 percent, used hired masters (Analysis, Table 4; see **ADDRESSES**).

The final rule also directly regulates hired masters. Under the current regulation, an individual may receive a hired master permit to harvest and land IFQ upon proof that the QS holder/IFQ permit holder owns a minimum 20-percent interest in the vessel that the hired master will use. Under the final rule, an individual may receive a hired master permit to harvest and land IFQ upon proof that the hired master will use a vessel in which the IFQ permit holder has owned a 20-percent interest

for the 12 months prior to the application by the IFQ permit holder for the hired master permit. In 2010, the number of individuals with hired master permits in the halibut IFQ fishery was 217; the number of individuals with hired master permits in the sablefish IFQ fishery was 127 (Analysis, Table 7; see **ADDRESSES**).

It is unknown to what extent this rule will result in individual QS holders choosing not to use hired masters in the future. It is unknown because that will depend on how individual QS holders respond to this rule: how many QS holders will choose to harvest their IFQ themselves rather than use a hired skipper; how many will meet the 12-month ownership requirement and continue to use a hired skipper; and how many will transfer their QS, which will likely make QS available to a number of hired skippers because hired skippers are likely to meet the requirements to receive QS by transfer.

Only individuals may receive QS by transfer and the individual either must be an initial recipient of QS or must have participated for 150 days in a harvesting crew in a U.S. commercial fishery. In 2010, approximately 60 percent of halibut IFQ hired skippers also owned their own QS; 70 percent of sablefish IFQ hired skippers also owned their own QS (Analysis, Table 8; see **ADDRESSES**). NMFS does not know how many of these hired skippers received QS as initial recipients. However, almost all persons who have a hired skipper permit are likely to have, or can get, 150 days of participating in a harvest crew in a U.S. commercial fishery by fishing pursuant to their hired skipper permit. If this rule results in the transfer of QS, the persons holding hired skipper permits are therefore likely to be eligible to acquire that QS by transfer.

Recordkeeping and Reporting Requirements

To use a hired master, an individual QS holder must submit a complete Application for IFQ/CDQ Hired Master Permit. To complete this application, an individual QS holder must submit documentation that he or she owns a minimum 20-percent ownership interest in the vessel that the hired master will use for the period of 12 months prior to the application by the QS holder to use the hired master. If the QS holder claims ownership of a documented vessel, the QS holder must submit an Abstract of Title that shows the QS as an owner. If the Abstract of Title does not show that the QS holder has a minimum 20-percent vessel ownership interest for the 12-month period prior to the application for a hired master, the QS holder must submit additional written documentation. If the QS holder claims ownership of a non-documented vessel, the QS holder must submit a State of Alaska license or registration showing the QS holder is an owner of the vessel. As with the Abstract of Title, if the State document does not show that the QS holder has a minimum 20-percent vessel ownership interest for the 12-month period prior to the application for a hired master permit, then the QS holder must submit additional written documentation.

Under the final rule, if the individual QS holder wishes to use a hired master and receive an exemption from the 12-month vessel ownership requirement, then the QS holder must show that the QS holder's vessel has been lost, irreparably damaged, or temporarily disabled by an accident that materially and adversely affects the vessel's seaworthiness or fitness for service. To receive this exemption, the QS holder must provide to NMFS a copy of USCG Form 2692 that has been submitted to the USCG. Under 46 CFR 4.05, a vessel owner is already under an obligation to submit Form 2692 to the USCG when a vessel is lost, irreparably damaged, or suffers an accident that materially and adversely affects the vessel's seaworthiness or fitness for service. If the QS holder is seeking an exemption from the 12-month vessel ownership based on temporary disablement of the vessel, the QS holder must also submit documentation that the vessel needs repairs that require 60 days or more.

The skills necessary to comply with the recordkeeping and reporting requirements for small entities regulated by this rule are the ability to read, write, and understand English; the ability to retrieve and submit vessel ownership documents; and the ability to submit other documents necessary to complete an application for a hired master permit, including Form 2692 in the event of vessel loss or temporary vessel disablement. No professional skills are necessary to comply with these recordkeeping and reporting requirements.

Description of Significant Alternatives to the Proposed Action That Minimize Adverse Impacts on Small Entities

The Council and NMFS analyzed the alternative of no action and the action contained in the proposed and final rules. The "no-action" alternative would not achieve the objective of the proposed rule because it would allow individual QS holders to use a hired master to harvest their IFQ based on ownership of a vessel only for the duration of the IFQ trip. NMFS is not aware of any alternatives that would accomplish the objectives of this action while minimizing the adverse economic impact on small entities.

In adopting the preferred alternative, the Council chose 12 months as the appropriate length of time that an individual QS holder had to own a vessel before the individual QS holder could hire a master to fish IFQ from that vessel. In 2005, when the Council first recommended the 12-month ownership requirement, it considered different periods of time during which a QS holder would have to own the vessel in advance of using a hired master: 6 months, 12 months, 24 months, and the year of application for a hired master period plus the previous calendar year. (RIR/IRFA, November 9, 2005, see **ADDRESSES**) The Council chose one year (12 months) because that time period typically includes an entire fishing season and most QS holders make operating decisions, including a decision to hire a skipper, on a year-to-year basis. NMFS affirms that reasoning for this action.

Collection of Information Requirements

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648–0272. Public reporting burden for Application for IFQ/CDQ Hired Master Permit is estimated to average 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The time-to-complete the application was changed from 30 minutes per response to 60 minutes per response due to a public comment on the proposed rule.

This final rule also corrects an error in regulatory text in a previous final rule pertaining to the IFQ Value and Volume Report that does not affect the burden or cost of completing the form. Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the 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 PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 18, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 et seq.

■ 2. In § 902.1, in the table in paragraph (b), under the entry "50 CFR";

■ a. Remove entries for "679.7(a)(7)(vii) through (ix), 679.7(n)(1)(x)"; "679.7(f)"; "679.7(f)(8)(ii)"; "679.7(k)"; "679.7(n)(4)(ii)"; "679.20(a)(8)(ii)"; "679.21(f) and (g)"; 679.21(h)"; "679.27(j)(5)"; "679.28(b), (c), (d), (e), (g), and (j)"; "679.28(k)"; "679.30"; "679.32(c)(1) and (2)"; "679.32(f)"; "679.42"; "679.42(a)(1)(i) through (ii), (b) through (e), (g), (h)(1), (h)(1)(i), (h)(2), and (h)(2)(i)"; "679.42(a)(2)(iii), (h)(1)(ii), and (h)(2)(ii)"; "679.61(c), (d), (e), and (f)"; "679.65(a), (c), and (d)"; and "679.65(b) through (e)";

■ b. Add entries in alphanumeric order for "679.7(a)(7)(i)"; "679.7(a)(7)(vii) through (ix)"; "679.7(b)(6) and (7) and (c)(3) and (c)(4)"; "679.7(f)(1) through (f)(7) and (f)(9) through (16)"; "679.7(f)(8)"; "679.7(k)"; "679.7(n)(1)"; "679.7(n)(2) and (n)(4) through (8)"; "679.7(n)(3)"; "679.21(f) and (g)"; "679.28(b) through (e) and (i)" "679.28(j) and (k)"; "679.31(c)"; "679.32(c)(1) through (3)"; "679.42(a) through (j)"; "679.42(k)"; "679.61(a) through (f)"; and "679.65".

The additions read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control No.*
* * * * *	
50 CFR:	
* * * * *	
679.7(a)(7)(i)	–0206
679.7(a)(7)(vii) through (ix)	–0334
* * * * *	
679.7(b)(6) and (7) and (c)(3) and (c)(4)	–0206, –0334
* * * * *	
679.7(f)(1) through (f)(7) and (f)(9) through (16)	–0269, –0272
679.7(f)(8)	–0206, –0334
* * * * *	
679.7(k)	–0393, –0330
* * * * *	
679.7(n)(1)	–0334
679.7(n)(2) and (n)(4) through (8)	–0545
679.7(n)(3)	–0445
* * * * *	
679.21(f) and (g)	–0393, –0401
* * * * *	
679.28(b) through (e) and (i)	–0330
679.28(j) and (k)	–0515
* * * * *	
679.31(c)	–0269
679.32(c)(1) through (3)	–0269
* * * * *	
679.42(a) through (j)	–0272, –0665
679.42(k)	–0445
* * * * *	
679.61(a) through (f)	–0393, –0401
* * * * *	
679.65	–0633
* * * * *	

* All numbers begin with 0648–.

Title 50—Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 4. In § 679.5, revise paragraph (l)(7)(i) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(l) * * *

(7) * * *

(i) *IFQ Registered Buyer Ex-vessel Volume and Value Report (IFQ Buyer Report)*—(A) *Applicability.* An IFQ Registered Buyer that operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut or CDQ landings of halibut must submit annually to NMFS a complete IFQ Buyer Report as described in this paragraph (l) and as provided by NMFS for each reporting period, as described at § 679.5(1)(7)(i)(E), in which the Registered Buyer receives IFQ fish or CDQ halibut.

(B) *Due date.* A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than October 15 following the reporting period in which the IFQ Registered Buyer receives the IFQ fish or CDQ halibut.

(C) *Information required.* A complete IFQ Buyer Report must include the following information as instructed on the report form at *http://alaskafisheries.noaa.gov/ram:*

(*1*) *IFQ Registered Buyer identification.*

(*2*) *Pounds purchased and values paid.* (*i*) The monthly total weights, represented in IFQ equivalent pounds by IFQ species or CDQ halibut, that were landed at the landing port location and purchased by the IFQ Registered Buyer;

(*ii*) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species or CDQ halibut, that were landed at the landing port location and purchased by the IFQ Registered Buyer;

(*3*) *Value paid for price adjustments*—(*i*) *Retro-payments.* The monthly total U.S. dollar amount of any retro-payments (correlated by IFQ species or CDQ halibut, landing month(s), and month of payment) made in the current year to IFQ, or to CDQ halibut permit holders for landings made during the previous calendar year;

(*ii*) *Electronic submittal.* Certification, including the NMFS ID and password of the IFQ Registered Buyer; or

(*iii*) *Non-electronic submittal.* Certification, including the printed name and signature of the individual submitting the IFQ Buyer Report on behalf of the Registered Buyer, and date of signature.

(D) *Submittal.* If applicable, the Registered Buyer must complete an IFQ Buyer Report and submit by mail or

FAX to NMFS at the address provided on the form, or electronically to NMFS online at *http://alaskafisheries.noaa.gov/ram.*

(E) *Reporting period.* The reporting period of the IFQ Buyer Report shall extend from October 1 through September 30 of the following year, inclusive.

* * * * *

■ 5. In § 679.42,

■ a. Revise paragraphs (i)(1)(i), (i)(1)(ii), and (i)(4); and

■ b. Add paragraphs (i)(1)(iv), (i)(1)(v), (i)(6) and (i)(7) to read as follows:

§ 679.42 Limitations on use of QS and IFQ.

* * * * *

(i) * * *

(1) * * *

(i) For a documented vessel, during the 12-month period previous to the application by the individual for a hired master permit, continuously owned a minimum 20-percent interest in the vessel as shown by the U.S. Abstract of Title issued by the U.S. Coast Guard that lists the individual as an owner and, if necessary to show 20-percent ownership for 12 months, additional written documentation; or

(ii) For an undocumented vessel, during the 12-month period previous to the application by the individual for a hired master permit, continuously owned a minimum 20-percent interest in the vessel as shown by a State of Alaska license or registration that lists the individual as an owner and, if necessary to show the 20-percent ownership for 12 months, additional written documentation; and

* * * * *

(iv) *NMFS review of application for exemption*—(A) *Initial evaluation.* The Regional Administrator will evaluate an application for a hired master submitted in accordance with paragraphs (i)(1), (i)(6), and (i)(7) of this section. An applicant who fails to submit the information specified in the application for a hired master will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(B) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to an individual submitting an application for a hired master submitted in accordance with paragraphs (i)(1), (i)(6), and (i)(7) of this section if the Regional Administrator determines that the information required to be submitted to NMFS is deficient or if the applicant fails to submit the required information. The IAD will indicate the deficiencies with the information submitted. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

(v) Upon request by the Regional Administrator or an authorized officer, a person must submit additional written documentation necessary to establish the required minimum 20-percent interest in the vessel during the 12-month period previous to the application by the individual for a hired master permit.

* * * * *

(4) The exemption provided in paragraph (i)(1) of this section may be exercised by an individual on a vessel owned by a corporation, partnership, association or other non-individual entity in which the individual is a shareholder, partner, or member, provided that during the 12-month period previous to the application by the individual for a hired master permit, the individual continuously maintained a minimum 20-percent ownership interest in the vessel owned by the corporation, partnership, association or other non-individual entity. For purposes of this paragraph, an individual's interest in a vessel is determined by the percentage ownership by the individual of a corporation, partnership, association or other non-individual entity that has an ownership interest in the vessel multiplied by the percentage of ownership of the vessel by the corporation, partnership, or other non-individual entity.

* * * * *

(6) In the event of the total loss or irreparable damage to a vessel owned by an individual who qualifies for the exemption in paragraph (i)(1) of this section, the individual may remain exempt under paragraph (i)(1) of this section until December 31 of the year following the year in which the vessel was lost or damaged, provided that the individual meets the following requirements:

(i) The loss or irreparable damage to the vessel was caused by an act of God, an act of war, a collision, an act or omission of a party other than the individual or agent of the individual, or any other event not caused by the willful misconduct of the individual or agent of the individual.

(ii) The lost or irreparably damaged vessel is a commercial fishing vessel that was previously used to harvest halibut IFQ or sablefish IFQ of the individual who qualifies for the exemption in paragraph (i)(1) of this section;

(iii) As part of the application for exemption, the individual submits to NMFS a copy of the USCG Form 2692 submitted to the USCG as specified in 46 CFR 4.05; and

(iv) The individual is applying to use a hired master on a vessel in which the individual has a minimum 20-percent ownership interest as of the date of the application by the individual for a hired master permit.

(7) In the event of temporary disablement of a vessel owned by an individual who qualifies for the exemption in paragraph (i)(1) of this section, the individual may remain exempt under paragraph (i)(1) of this section until December 31 of the year following the year in which the vessel was disabled, provided that the individual meets the following requirements:

(i) The temporary disablement of the vessel results from repairs required by an accident that materially and adversely affected the vessel's seaworthiness or fitness for service, such as from sinking, grounding, or fire;

(ii) The repairs from the accident require at least 60 days to be completed;

(iii) The disabled vessel is a commercial fishing vessel that was previously used to harvest halibut IFQ or sablefish IFQ of the individual who qualifies for the exemption in paragraph (i)(1) of this section;

(iv) The individual submits to NMFS a copy of the USCG Form 2692 submitted to the USCG as specified in 46 CFR 4.05; and

(v) The individual is applying to use a hired master on a vessel in which the individual has a minimum 20-percent ownership interest as of the date of the application by the individual for a hired master permit.

* * * * *

[FR Doc. 2014–03910 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0936]

Drawbridge Operation Regulations; Upper Mississippi River, Rock Island, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice canceling temporary deviation from regulations.

SUMMARY: The Coast Guard is canceling the temporary deviation concerning the Rock Island Railroad and Highway Drawbridge across the Upper

Mississippi River, mile 482.9, at Rock Island, Illinois due to work scheduling issues and has been postponed to a later date.

DATES: The temporary deviation published on November 22, 2013, 78 FR 69995, is cancelled as of January 22, 2014.

ADDRESSES: The docket for this deviation, [USCG–2013–0936] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this cancellation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Basis and Purpose

On November 22, 2013, we published a temporary deviation entitled "Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL" in the **Federal Register** (78 FR 69995). The temporary deviation concerned a change from the operating schedule that governs the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The bridge owner was scheduled to perform preventive maintenance and critical repairs that are essential to the continued safe operation of the drawbridge. The work was scheduled in the winter, when the impact on navigation was minimal, instead of scheduling the work at other times in the year, when river traffic is prevalent. The deviation allowed the bridge to be maintained in the closed-to-navigation position for 77 days. This deviation from the operating regulations was authorized under 33 CFR 117.35.

B. Cancellation

This deviation is cancelled as of January 22, 2014, due to work scheduling issues during the winter months.

Dated: February 7, 2014.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2014–03873 Filed 2–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0038]

Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The deviation is necessary to allow the Quad Cities Heart Walk to cross the bridge. This deviation allows the bridge to be maintained in the closed-to-navigation position for two hours.

DATES: This deviation is effective from 9 a.m. to 11 a.m., May 17, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0038] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil.* If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, mile 482.9, across the Upper Mississippi River, at Rock Island, Illinois to remain in the closed-to-navigation position for a two hour period from 9 a.m. to 11 a.m., May 17, 2014, while the Quad Cities Heart Walk is held between the cities of Davenport, IA and Rock Island, IL.

The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 23.8 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 7, 2014.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2014–03881 Filed 2–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0059]

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Burlington Northern Santa Fe Railway Bridge, also known as the St. Johns RR Bridge, across the Willamette River, mile 6.9, at Portland, OR. The deviation is necessary to facilitate replacement of the frayed counterweight wire ropes for the lift mechanism of the bridge. This deviation allows the bridge to remain in the closed position during maintenance activities.

DATES: This deviation is effective from 7 a.m. on March 19, 2014 to 7 p.m. on April 15, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0059] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Coast Guard Thirteenth District; telephone 206–220–7282, email *steven.m.fischer3@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Burlington Northern Santa Fe (BNSF) Railway requested this deviation to facilitate replacement of the frayed counterweight wire ropes for the lift mechanism of the bridge. The bridge, also known as the St. Johns RR Bridge, crosses the Willamette River at mile 6.9 and provides 54 feet of vertical clearance above Columbia River Datum 0.0, while in the closed position. Under normal operations this bridge opens on signal as required by 33 CFR 117.5. The deviation period is from 7 a.m. on March 19, 2014 to 7 p.m. on April 15, 2014. This deviation allows the lift span of the BNSF Railway Bridge across the Willamette River, mile 6.9, to remain in the closed position and need not open for maritime traffic during following four 12 hour periods: 7 a.m. to 7 p.m. on Wednesday, March 19, 2014; 7 a.m. to 7 p.m. on Monday, March 24, 2014; 7 a.m. to 7 p.m. on Thursday, March 27, 2014; and 7 a.m. to 7 p.m. on Tuesday, April 1, 2014. The bridge shall operate in accordance to 33 CFR 117.5 at all other times. BNSF will entertain requests from mariners to change the above listed schedule for emergent vessel arrivals or departures that are water level dependant given 72 hours advanced notice. BNSF contact is Ron Berry, who can be reached at (913) 551–4164. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft.

Vessels which do not require a bridge opening may continue to transit beneath the bridge during this closure period. Due to the nature of work being performed the draw span will be unable to open for for emergencies. Mariners have been notified and will be kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 10, 2014.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2014–03882 Filed 2–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2013–1088]

Drawbridge Operation Regulations; Reynolds Channel, Lawrence, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Atlantic Beach Bridge, mile 0.4, across Reynolds Channel, at Lawrence, New York. The deviation is necessary to facilitate structural repairs at the bridge. This temporary deviation authorizes the Atlantic Beach Bridge to operate under an alternate schedule to complete the structural repairs at the bridge.

DATES: This deviation is effective from March 24, 2014 through May 23, 2014.

ADDRESSES: The docket for this deviation, [USCG–2013–1088] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or (212) 668–7165. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Atlantic Beach Bridge, across Reynolds Channel, mile 0.4, at Lawrence, New York, has a vertical clearance in the closed position of 25 feet at mean high water and 30 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(e).

The waterway is transited by commercial and seasonal recreational vessels of various sizes.

The owner of the bridge, Nassau County Bridge Authority, requested approval to operate the bridge under a temporary operating schedule to facilitate structural repairs at the bridge.

Under this temporary deviation the draw of the Atlantic Beach Bridge at mile 0.4, across Reynolds Channel shall operate, under the following operating schedule:

March 24, 2014 through April 20, 2014, Monday through Friday, the bridge shall operate a single span on signal between 6:30 a.m. and 4 p.m. From 4 p.m. through 6:30 a.m. the bridge shall open both spans on signal.

Weekends and holidays, from 4 p.m. on Friday through 6:30 a.m. on Monday the bridge shall operate two spans on signal.

April 21, 2014 through May 23, 2014, Monday through Friday, the bridge shall remain in the closed position; except that, the draw shall open on signal at 12 p.m. provided at least a one hour notice is given.

Weekends and holidays, from 4 p.m. on Friday through 6:30 a.m. on Monday the bridge shall operate two spans on signal.

The bridge shall open on signal at all times for commercial vessel traffic after at least a 48 hour advance notice is given by calling the number posted at the bridge.

The Coast Guard contacted all known commercial waterway users regarding this deviation and no objections were received.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 10, 2014.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2014–03875 Filed 2–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–8323]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register.**

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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 rule involves no policies that have federalism implications under Executive Order 13132.

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 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.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region III				
Maryland: Baltimore, City of, Independent City.	240087	December 3, 1971, Emerg; March 15, 1978, Reg; April 2, 2014, Susp.	April 2, 2014	April 2, 2014.
Virginia:				
Albemarle County, Unincorporated Areas.	510006	May 9, 1973, Emerg; December 16, 1980, Reg; April 2, 2014, Susp.	.....do	Do.
Scottsville, Town of, Albemarle and Fluvanna Counties.	510007	April 12, 1973, Emerg; September 5, 1979, Reg; April 2, 2014, Susp.	.....do	Do.
Region V				
Wisconsin:				
Columbia County, Unincorporated Areas.	550581	July 31, 1975, Emerg; April 15, 1980, Reg; April 2, 2014, Susp.	.....do	Do.
Portage, City of, Columbia County	550063	June 11, 1974, Emerg; August 15, 1983, Reg; April 2, 2014, Susp.	.....do	Do.
Region VI				
Texas:				
Arcola, City of, Fort Bend County	481619	September 26, 1988, Emerg; September 26, 1988, Reg; April 2, 2014, Susp.	.....do	Do.
Brazos County, Unincorporated Areas ..	481195	January 13, 1986, Emerg; July 2, 1992, Reg; April 2, 2014, Susp.	.....do	Do.
Bryan, City of, Brazos County	480082	May 2, 1974, Emerg; May 19, 1981, Reg; April 2, 2014, Susp.	.....do	Do.
College Station, City of, Brazos County	480083	August 16, 1974, Emerg; July 2, 1981, Reg; April 2, 2014, Susp.	.....do	Do.
Fairchilds, Village of, Fort Bend County	481675	N/A, Emerg; May 28, 1996, Reg; April 2, 2014, Susp.	.....do	Do.
First Colony Levee Improvement District (L.I.D.), Fort Bend County.	481583	December 9, 1982, Emerg; November 19, 1987, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County, Unincorporated Areas.	480228	March 19, 1987, Emerg; March 19, 1987, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County L.I.D. #2, Fort Bend County.	481485	June 27, 1977, Emerg; February 15, 1985, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County L.I.D. #7, Fort Bend County.	481594	September 6, 1985, Emerg; August 5, 1986, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County Municipal Utility District (M.U.D.) #2, Fort Bend County.	481272	June 25, 1976, Emerg; November 15, 1984, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County M.U.D. #23, Fort Bend County.	481590	June 11, 1985, Emerg; August 5, 1986, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County M.U.D. #25, Fort Bend County.	481570	May 29, 1981, Emerg; February 4, 1987, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County M.U.D. #34, Fort Bend County.	481520	September 10, 1984, Emerg; August 5, 1986, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County M.U.D. #35, Fort Bend County.	481519	July 20, 1984, Emerg; August 5, 1986, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County M.U.D. #41, Fort Bend County.	481591	June 27, 1985, Emerg; August 5, 1986, Reg; April 2, 2014, Susp.	.....do	Do.
Fort Bend County M.U.D. #42, Fort Bend County.	481605	May 11, 1987, Emerg; May 11, 1987, Reg; April 2, 2014, Susp.	.....do	Do.
Fulshear, City of, Fort Bend County	481488	April 3, 1981, Emerg; July 31, 1981, Reg; April 2, 2014, Susp.	.....do	Do.
Houston, City of, Fort Bend, Harris and Montgomery Counties.	480296	September 14, 1973, Emerg; December 11, 1979, Reg; April 2, 2014, Susp.	.....do	Do.
Katy, City of, Fort Bend, Harris and Waller Counties.	480301	February 13, 1975, Emerg; March 2, 1981, Reg; April 2, 2014, Susp.	.....do	Do.
Kendleton, City of, Fort Bend County ...	481551	N/A, Emerg; September 15, 2001, Reg; April 2, 2014, Susp.	.....do	Do.
Kingsbridge M.U.D., Fort Bend and Harris Counties.	481567	July 21, 1980, Emerg; August 5, 1986, Reg; April 2, 2014, Susp.	.....do	Do.
Missouri City, City of, Fort Bend and Harris Counties.	480304	August 29, 1973, Emerg; January 6, 1982, Reg; April 2, 2014, Susp.	.....do	Do.
Needville, City of, Fort Bend County	480820	February 8, 1980, Emerg; July 31, 1981, Reg; April 2, 2014, Susp.	.....do	Do.
Pearland, City of, Brazoria, Fort Bend and Harris Counties.	480077	December 19, 1973, Emerg; July 5, 1984, Reg; April 2, 2014, Susp.	.....do	Do.
Pecan Grove M.U.D., Fort Bend County	481486	June 27, 1977, Emerg; August 4, 1987, Reg; April 2, 2014, Susp.	.....do	Do.
Pleak, Village of, Fort Bend County	481615	May 31, 1988, Emerg; May 31, 1988, Reg; April 2, 2014, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Richmond, City of, Fort Bend County ...	480231	March 31, 1975, Emerg; January 9, 1987, Reg; April 2, 2014, Susp.	.....do	Do.
Rosenberg, City of, Fort Bend County ..	480232	July 21, 1975, Emerg; December 4, 1984, Reg; April 2, 2014, Susp.	.....do	Do.
Simonton, City of, Fort Bend County	481564	March 4, 1980, Emerg; August 4, 1987, Reg; April 2, 2014, Susp.	.....do	Do.
Sugar Land, City of, Fort Bend County	480234	March 31, 1975, Emerg; November 4, 1981, Reg; April 2, 2014, Susp.	.....do	Do.
Thompsons, Town of, Fort Bend County.	481642	January 29, 1992, Emerg; September 30, 1992, Reg; April 2, 2014, Susp.	.....do	Do.
West Keegans Bayou Improvement District, Fort Bend and Harris Counties.	481602	August 18, 1986, Emerg; August 18, 1986, Reg; April 2, 2014, Susp.	.....do	Do.
Weston Lakes, City of, Fort Bend County.	481197	N/A, Emerg; April 28, 2009, Reg; April 2, 2014, Susp.	.....do	Do.
Willow Fork Drainage District, Fort Bend and Harris Counties.	481603	September 8, 1986, Emerg; September 8, 1986, Reg; April 2, 2014, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: January 27, 2014.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–03762 Filed 2–21–14; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 09–189; RM–11564; DA 14–112]

Radio Broadcasting Services; Kahuku and Kualapuu, Hawaii

AGENCY: Federal Communications Commission.

ACTION: Final rule, denial of petition for reconsideration.

SUMMARY: The Media Bureau denies a Petition for Reconsideration filed by Kona Coast Radio, LLC ("Kona") of the dismissal of its Petition for Rule Making for a new FM allotment at Kahuku, Hawaii, because Kona had not demonstrated error with the staff's decision. The Bureau also affirmed the grant of a Counterproposal filed by Kemp Communications, Inc. for a new allotment at Kualapuu, Hawaii, and a minor modification application filed by Big D Consulting, Inc. *See* **SUPPLEMENTARY INFORMATION.**

DATES: Effective February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes or Deborah Dupont, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* DA 14–112, adopted January 30, 2014, and released January 31, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC, 20054, telephone 1–800–378–3160 or *www.BCPIWEB.com.* This document is not subject to the Congressional Review Act. (The Commission is, therefore, not required to submit a copy of this *Memorandum Opinion and Order* to the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Petition for Reconsideration was denied.

The Bureau ruled that Kona's Petition for Rule Making was properly dismissed for three reasons. First, Kona had submitted a late filed expression of interest in the proposed allotment that would prejudice another party in violation of Commission policy. Second, although Kona's Petition for Rule Making was filed on July 24, 2009, it was improperly addressed and not received at the Office of the Secretary until August 18, 2009. Because an intervening and conflicting application was filed by Big D Consulting, Inc., on August 10, 2009, the application had cut-off protection vis-à-vis Kona's filing, and, therefore, Kona's Petition for Rule Making was properly dismissed. Third, Kona had not submitted sufficient grounds for waiver of the filing requirement that pleadings in FM allotment rule making proceedings be officially filed at the Secretary's office. *See also Report and Order,* 76 FR 12292, March 7, 2011.

Federal Communications Commission.

Peter H. Doyle,

Chief, Audio Division, Media Bureau.

[FR Doc. 2014–03498 Filed 2–21–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 130820738–4114–02]

RIN 0648–BD62

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Air Force Launches, Aircraft and Helicopter Operations, and Harbor Activities Related to Launch Vehicles From Vandenberg Air Force Base (VAFB), California

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

ACTION: Final rule.

SUMMARY: NMFS, upon application from the U.S. Air Force (USAF), is issuing regulations pursuant to the Marine Mammal Protection Act (MMPA) to

govern the unintentional taking of marine mammals incidental to launches, aircraft and helicopter operations from VAFB launch complexes and *Delta Mariner* operations, cargo unloading activities, and harbor maintenance dredging in support of the Delta IV/Evolved Expendable Launch Vehicle (EELV) launch activity on south VAFB for the period March 2014 to March 2019. These regulations, which allow for the issuance of Letters of Authorization (LOAs) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from March 26, 2014 through March 26, 2019.

ADDRESSES: A copy of the application and our Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* Documents cited in this final rule may also be viewed, by appointment, during regular business hours at 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as: "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

The National Defense Authorization Act of 2004 (NDAA) (Pub. L. 108–136) removed the "small numbers" and "specified geographical region" limitations and amended the definition of "harassment" as it applies to a "military readiness activity" to read as follows (Section 3(18)(B) of the MMPA): "(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment]." Because the USAF's activities constitute military readiness activities, they are not subject to the small numbers or specified geographic region limiations.

Based on a previous request from the USAF, NMFS issued regulations and LOAs to the USAF to allow it to take species of pinnipeds at the VAFB. Those regulations and LOAs expired on February 6, 2014.

Summary of Request

On June 24, 2013, NMFS received an application from the USAF requesting regulations and an LOA for the take of five species of pinnipeds incidental to USAF launch, aircraft, and helicopter operations from VAFB launch complexes and *Delta Mariner* operations, cargo unloading activities, and harbor maintenance dredging. The *Delta Mariner* operations, cargo unloading, and harbor maintenance dredging are conducted in support of the Delta IV/EELV launch activity from Space Launch Complex 6 on south VAFB. NMFS has issued regulations to govern these activities, to be effective from March 2014, through March 2019. These training activities are classified as military readiness activities. The USAF states that these activities may result in take of marine mammals from noise or visual disturbance from rocket and missile launches, as well as from the use of heavy equipment during the *Delta Mariner* off-loading operations, cargo movement activities, increased presence of personnel, and harbor maintenance dredging. The USAF requested authorization to take annually five pinniped species by Level B Harassment: Pacific harbor seals; California sea lions; northern elephant seals; northern fur seals; and Steller sea lions. In this final rule, NMFS has authorized the take by Level B harassment of all five species listed here.

Activities relating to the *Delta Mariner* operations have been authorized previously by NMFS under annual Incidental Harassment Authorizations (IHAs). To date, we have issued 10 IHAs to United Launch Alliance (working on behalf of the USAF) to take marine mammals incidental to conducting operations in support of Delta IV/EELV launch activity from Space Launch Complex (SLC) 6. The most recent IHA was effective from September 26, 2012, through September 25, 2013. Through this final rulemaking, NMFS and the USAF are incorporating the *Delta Mariner* operations into the rulemaking for the launch, aircraft, and helicopter operations at VAFB.

Description of the Specified Activity

VAFB Launch Activities and Aircraft and Helicopter Operations

VAFB (see Figure 1 in the USAF application) is headquarters to the 30th Space Wing (SW), the Air Force Space Command unit that operates VAFB and the Western Range. VAFB operates as a missile test base and aerospace center, supporting west coast space launch activities for the USAF, Department of Defense, National Aeronautics and Space Administration, and commercial contractors. VAFB is the main west coast launch facility for placing commercial, government, and military satellites into polar orbit on expendable (unmanned) launch vehicles, and for testing and evaluating intercontinental ballistic missiles (ICBM) and sub-orbital target and interceptor missiles. In addition to space vehicle and missile launch activities at VAFB, there are helicopter and aircraft operations for purposes such as search-and-rescue, delivery of space vehicle components, launch mission support, security reconnaissance, and training flights. The USAF anticipates that the space and missile launch frequency will not exceed a combined total of 50 launches (35 rockets and 15 missiles) per year from VAFB. Table 1 in this document outlines the numbers of rocket and missile launches that occurred in 2011, 2012, and 2013. Although subject to change, Table 2 presents preliminary estimates of the numbers of rocket and missile launches from VAFB during calendar years 2014 through 2019. Estimates for the earlier years are likely

more accurate than those for the last two to three years. However, as noted earlier, the launch frequency is not anticipated to exceed 50 launches in a given year. Any launches over this amount would require additional coordination between NMFS and the USAF before they occur.

TABLE 1—NUMBERS OF ROCKET AND MISSILE LAUNCHES IN CALENDAR YEARS 2011, 2012, AND 2013, FROM VAFB

Year	Rocket launches	Missile launches
2011	7	2
2012	2	2
2013	4 (as of Sept. 24, 2013, 3 rockets launched with 1 additional planned before Dec. 31).	5 (as of Sept. 24, 2013, 3 missiles launched with 2 additional planned before Dec. 31)

TABLE 2—PRELIMINARY NUMBERS OF PROJECTED ROCKET AND MISSILE LAUNCHES IN CALENDAR YEARS 2014 THROUGH 2019 FROM VAFB

[The projections for calendar years 2018 and 2019 are highly preliminary at this time]

Year	Rocket launches	Missile launches
2014	6	6
2015	9	5
2016	9	6
2017	4	5
2018	9	6
2019	12	7

There are currently six active facilities at VAFB used to launch satellites into polar orbit. These facilities support launch programs for the Atlas V, Delta II, Delta IV, Falcon 9, Minotaur, and Taurus rockets. Various booster and fuel packages can be configured to accommodate payloads. Details on the vehicle types and the sound exposure levels (SELs) produced by each missile or rocket, as well as the helicopter and aircraft operations, were described in the proposed rule (78 FR 73794, December 9, 2013). That information has not changed and therefore is not repeated here.

Timeframe of USAF Launch and Aircraft Operations

Launch and aircraft operations could occur at any time of the day or night during the period to be covered under this final rule and associated LOA (March 2014–March 2019). The USAF anticipates that no more than 15 missile and 35 rocket launches would occur in any year. This number is far higher than launch activity in previous years, but one new facility (SLC 4) is being reactivated with intent to increase "commercial launch" activity, and Test Pad-01 is being renovated. The USAF notes that activity levels over the 5-year period between March 2014 and March 2019 will not exceed 75 missile and 175 rocket launches without additional coordination with NMFS. All launch operations would occur at VAFB, potentially resulting in launch noise and visual impacts there. Potential sonic boom impacts from space launch vehicles (SLVs) could occur over the Northern Channel Islands (NCI). Missiles are launched in a westerly trajectory and do not impact the NCI. Aircraft operations would occur only at VAFB and are anticipated to only impact hauled out pinnipeds when flying at low altitudes (i.e., typically below 305 m [1,000 ft]).

Harbor Activities Related to the Delta IV Evolved Expendable Launch Vehicle

The Delta IV/EELV is comprised of a common booster core, an upper stage, and a payload fairing. The size of the common booster core requires it to be transported to the Base's launch site by a specially-designed vessel, the *Delta Mariner*. United Launch Alliance operates the *Delta Mariner* on behalf of the USAF. The *Delta Mariner* docks at the harbor on south VAFB. To allow safe operation of the *Delta Mariner*, United Launch Alliance requires that the harbor undergo maintenance on a periodic basis. The proposed rule contained a full description of the *Delta Mariner* operations, harbor maintenance dredging, and cargo movement activities (78 FR 73794, December 9, 2013). Those activities have not changed and therefore are not described again here.

Timeframe of Delta Mariner Activities

Cargo movement operations would occur for approximately 43 days (concurrent with the harbor maintenance activities). A fully-loaded vessel can be offloaded in 10 hours; however, the *Delta Mariner* may need to leave the dock and return at another time due to tide and wind extremes that may halt the removal of cargo. Dredging-related activities normally last between 3 and 5 weeks, including set-up and tear-down activities in the water and on shore. Dredging may proceed 24 hours per day to complete the job as quickly as possible and minimize the disruptive effect on the local animals; however, dredging at VAFB has historically been conducted in the daylight. Sedimentation surveys completed since the initial dredging indicate that maintenance dredging could be required annually, or even twice per year, depending on the hardware delivery schedule. Up to 5,000 cubic yards of sediment are allowed to be removed from the harbor per year by the United States Army Corps of Engineers permit. A survey occurs several months prior to each *Delta Mariner* visit to assess whether the harbor can be safely navigated. The area to be dredged is shown in Figure 1.2–1 of Appendix A in the application.

We expect that acoustic stimuli, resulting from the *Delta Mariner* activities, have the potential to incidentally harass marine mammals. We also expect these disturbances to be temporary and result in a temporary modification in behavior and/or low-level physiological effects (Level B harassment only) of certain species of marine mammals.

We do not expect that the movement of the *Delta Mariner* during the conduct of the proposed activities has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (1.5 to 2 kts; 1.72 mph) during its approach to the area at high tide and the vessel's slow

operational speed (0.75 kts; 0.86 mph) during its approach to the wharf.

Description of the Geographic Region of the Activities

VAFB

VAFB is composed of approximately 99,000 acres of land, and approximately 64.4 km (40 mi) of coastline on the coast of central California, within Santa Barbara County (see Figure 1 in the USAF application). Space vehicles are launched into polar orbits on azimuths from 147–201 degrees, with sub-orbital flights to 281 degrees. Missile launches are directed toward Kwajalein Atoll in the Pacific. This over-water sector, from 147–281 degrees, comprises the Western Range. Part of the Western Range encompasses the NCI (see Figure 1 in the USAF application).

NCI

The NCI are located approximately 50 km (31 mi) south of the southern point on VAFB. Three islands, San Miguel, Santa Cruz, and Santa Rosa, make up the main NCI, with San Miguel Island being the primary site for pinniped rookeries. The NCI are part of the Channel Islands National Park and the Channel Islands National Marine Sanctuary. The closest part of the NCI (Harris Point on San Miguel Island) is located more than 55 km (34 mi) south-southeast of the nearest launch facility.

VAFB Harbor

The harbor maintenance and *Delta Mariner* activities will take place in or near the VAFB harbor located on the central coast of California at 34° 33′ N., 120° 36′ W. in the northeast Pacific Ocean. Activities related to these operations and described in Appendix A of the application will take place at VAFB harbor, located on South Base, approximately 2.3 km (1.4 mi) south of Point Arguello, CA, and approximately 1 mi (1.61 km) south of the nearest marine mammal rookery.

Description of Marine Mammals in the Area of the Specified Activity

Sections 3 and 4 of the USAF application and Sections 3 and 4 of Appendix A of the application contain detailed information on the abundance, status, and distribution of the species on VAFB and the NCI from surveys that they have conducted over the last decade and from NMFS Stock Assessment Reports (SARs). This information was summarized in the proposed rule (78 FR 73794, December 9, 2013) and may be viewed in detail in the USAF's LOA application (see **ADDRESSES**). Additional information is available in the NMFS SARs, which are available at: *http://www.nmfs.noaa.gov/pr/sars/pdf/po2012.pdf*.

The species most likely to occur at VAFB and the VAFB harbor are Pacific harbor seals, California sea lions, and northern elephant seals. Steller sea lions have also been seen in recent years at VAFB. However, Steller sea lions are not anticipated to be encountered on the NCI. Northern fur seals may be encountered on the NCI but are not found at VAFB haul-outs. Table 3 in this document outlines current population estimates of the five pinniped species described here on the NCI.

TABLE 3—NCI PINNIPED POPULATION ESTIMATES

Species	San Miguel Island	Santa Rosa Island	Santa Cruz Island	Anacapa Island
Pacific harbor seal	900	1,000	1,000	100
California sea lion	32,000 pups born in 2012.[1]	500[2]	1,200[2]	1,000.[2]
Northern elephant seal	±10,000 pups yearly	±2,000 pups yearly	Occasional transient	Rare transient.
Steller sea lion	Rare transient	None	None	None.
Northern fur seal	9,968	None	None	None.

Sources: Carretta *et al.* 2011 and 2012; Allen and Angliss 2011 and 2012.

[1] No estimate is available for the total sea lion population on each main rookery island. Instead, pup counts are made at various breeding areas, and from this count, an estimate is made of the stock size, which includes pups, subadults and adults.

[2] Regular surveys are not conducted of these islands, and pupping is very sporadic and minimal there. These are estimates of the total number of sea lions at these islands.

Other Marine Mammals in the Proposed Action Area

There are several cetaceans that have the potential to transit in the vicinity of VAFB, including the short-beaked common dolphin (*Delphinus delphis*), the Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the gray whale (*Eschrichtius robustus*). We do not consider these species further in this final rule because they are typically found farther offshore of VAFB and the VAFB harbor and are unlikely or rare in the action area. Guadalupe fur seals (*Arctocephalus townsendi*) are reported occasionally at San Miguel Island; and, in 1998, a pup was successfully weaned there (Melin and DeLong, 1999). However, their occurrence is rare.

California (southern) sea otters (*Enhydra lutris nereis*) are listed as threatened under the Endangered Species Act and categorized as depleted under the MMPA. The U.S. Fish and Wildlife Service manages this species, and we do not consider this species in greater detail within this final rule. This final rule only address requested take authorizations for pinnipeds. The USAF launch, aircraft, and helicopter operations have the potential to take Pacific harbor seals, California sea lions, northern elephant seals, Steller sea lions, and northern fur seals by Level B harassment. The harbor activities related to the launch vehicles at VAFB have the potential to take four of the same species (all but northern fur seals, which are not found in the vicinity of the VAFB harbor) by Level B harassment.

Potential Effects of Specified Activities on Marine Mammals

The activities proposed have the potential to cause harassment of marine mammals through both acoustic and visual stimuli. The USAF launch and aircraft activities create two types of noise: continuous (but short-duration) noise, due mostly to combustion effects of aircraft and launch vehicles; and impulsive noise, due to sonic boom effects. Launch operations are the major source of noise on the marine environment from VAFB. The operation of launch vehicle engines produces significant sound levels. Generally, noise is generated from four sources during launches: (1) Combustion noise from launch vehicle chambers; (2) jet noise generated by the interaction of the exhaust jet and the atmosphere; (3) combustion noise from the post-burning of combustion products; and (4) sonic booms. Launch noise levels are highly dependent on the type of first-stage booster and the fuel used to propel the vehicle. Therefore, there is a great similarity in launch noise production within each class size of launch

vehicles. The noise generated by VAFB activities will result in the incidental harassment of pinnipeds, both behaviorally and in terms of physiological (auditory) impacts.

Acoustic and visual stimuli generated by the use of heavy equipment during the *Delta Mariner* off-loading operations and harbor dredging and the increased presence of personnel may have the potential to cause Level B harassment of any pinnipeds hauled out in the VAFB harbor. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

The noise and visual disturbances from SLV and missile launches, aircraft and helicopter operations, and harbor maintenance activities may cause the animals to lift their heads, move towards the water, or enter the water. The proposed rule (78 FR 73794, December 9, 2013) contained information regarding marine mammal responses to launch noise and harbor maintenance activities that has been gathered under previous LOAs and IHAs for these activities, as well as a scientific research permit issued to VAFB by NMFS for a research program (Permit No. 859–1680–01, expired January 1, 2009, and Permit No. 14197, expires June 30, 2014) to determine the short and long-term effects of SLV noise and sonic booms on affected marine mammals. That information is not repeated here.

In general, if the received level of the noise stimulus exceeds both the background (ambient) noise level and the auditory threshold of the animals, and especially if the stimulus is novel to them, there may be a behavioral response. The probability and degree of response will also depend on the season, the group composition of the pinnipeds, and the type of activity in which they are engaged. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering (i.e., Level B harassment) and would not cause injury or mortality to marine mammals. On the other hand, startle and alert reactions accompanied by large-scale movements, such as stampedes into the water of hundreds of animals, may rise to Level A harassment because animals could be injured. In addition, such large-scale movements by dense aggregations of marine mammals or at pupping sites could potentially lead to takes by injury or death. However, there is very little potential for large-scale movements leading to serious injury or mortality near the south VAFB harbor because, historically, the number of harbor seals hauled out near the site is less than 30 individuals, and there is no pupping at nearby sites. The effects of the harbor activities are expected to be limited to short-term startle responses and localized behavioral changes. Additionally, the USAF does not anticipate a significant impact on any of the species or stocks of marine mammals from launches from VAFB. For even the largest launch vehicles, such as Delta IV, the launch noises and sonic booms can be expected to cause a startle response and flight to water for those harbor seals, California sea lions and other pinnipeds that are hauled out on the coastline of VAFB and on the NCI. The noise may cause temporary threshold shift in hearing depending on exposure levels, but no permanent threshold shift is anticipated. Because aircraft will fly at altitudes greater than 305 m (1,000 ft) around pinniped haul-outs and rookeries, animals are not anticipated to react to aircraft and helicopter overflights.

The potential effects to marine mammals described in this section of the document do not take into consideration the required monitoring and mitigation measures described later in this document (see the "Mitigation" and "Monitoring and Reporting" sections) which, as noted, should effect the least practicable adverse impact on affected marine mammal species and stocks.

Anticipated Effects on Marine Mammal Habitat

Impacts on marine mammal habitat are part of the consideration in making a finding of negligible impact on the species and stocks of marine mammals. Habitat includes rookeries, mating grounds, feeding areas, and areas of similar significance. We do not anticipate that the operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the area, including the food sources they use (i.e. fish and invertebrates). While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail, as behavioral modification. The main impact associated with the activity will be temporarily elevated noise levels and the associated direct effects on marine mammals.

Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(A) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses (where relevant). The NDAA of 2004 amended the MMPA as it relates to military-readiness activities and the ITA process such that "least practicable adverse impact" shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the "military readiness activity." The training activities described in the USAF application are considered military readiness activities.

Section 11 of the USAF application and Section 11 of Appendix A in the application contain descriptions of the mitigation measures to be implemented during the specified activities in order to effect the least practicable adverse impact on the affected marine mammal species and stocks and their habitats. Please refer to the application (see **ADDRESSES**) for the full description.

Measures During Launches and Aircraft and Helicopter Operations

All aircraft and helicopter flight paths must maintain a minimum distance of 1,000 ft (305 m) from recognized seal haul-outs and rookeries (e.g., Point Sal, Purisima Point, Rocky Point), except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting) which may require approaching pinniped haul-outs and rookeries closer than 1,000 ft (305 m). For missile and rocket launches, unless constrained by other factors including human safety, national security concerns or launch trajectories, holders of LOAs must schedule launches to avoid, whenever possible, launches during the harbor seal pupping season of March through June. The USAF must avoid, whenever possible, launches which are predicted to produce a sonic boom on the NCI during harbor seal, elephant seal, California sea lion, and northern fur seal pupping seasons.

If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred, the launch procedure and the monitoring methods must be reviewed, in cooperation with NMFS, and appropriate changes must be made through modification to an LOA, prior to conducting the next launch of the same vehicle under that LOA.

Measures During Harbor Activities

To reduce the potential for disturbance from visual and acoustic stimuli associated with the activities, the USAF contractor, United Launch Alliance/and or its designees, will implement the following mitigating measures for marine mammals:

(1) If activities occur during nighttime hours, turn on lighting equipment before dusk. The lights would remain on for the entire night to avoid startling pinnipeds.

(2) Initiate operations before dusk.

(3) Keep construction noises at a constant level (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present.

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, initiate a gradual start-up of activities to ensure a gradual increase in noise levels.

(5) A qualified observer would visually monitor the harbor seals on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of the activities (see Monitoring).

(6) The *Delta Mariner* and accompanying vessels would enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks; reducing speed to 1.5 to 2 knots (1.5–2 nm/hr; 2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel would enter the harbor stern first, approaching the wharf and moorings at less than 0.75 knot (1.4 km/hr).

(7) Explore alternate dredge methods and introduce quieter techniques and equipment as they become available.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Based on our evaluation of the applicant's measures, as well as other measures considered, NMFS has determined that the mitigation measures described above provide the means of effecting the least practicable adverse impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance while also considering personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that we must set forth "requirements pertaining to the monitoring and reporting of such taking." The Act's implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

As part of its application, the USAF provided a monitoring plan, similar to that in the current regulations (50 CFR 216.125) and previous IHAs issued to United Launch Alliance, for assessing impacts to marine mammals from rocket and missile launches at VAFB and *Delta Mariner* operations. This monitoring plan is described, in detail, in Section 8 of the main portion of the application for launch monitoring activities and Section 13 of Appendix A of the application for *Delta Mariner* operations monitoring activities. The following monitoring will be conducted under these regulations.

The monitoring will be conducted by a NMFS-approved marine mammal biologist experienced in surveying large numbers of marine mammals.

Monitoring for Launches on VAFB

Monitoring at the haul-out site closest to the launch facility will commence at least 72 hours prior to the launch and continue until at least 48 hours after the launch. Biological monitoring at VAFB will be conducted for all launches during the harbor seal pupping season, 1 March to 30 June. Acoustic and biological monitoring will be conducted on new space and missile launch vehicles during at least the first launch, whether it occurs within the pupping season or not.

Monitoring will include multiple surveys each day that record, when possible, the species, number of animals, general behavior, presence of pups, age class, gender, and reaction to launch noise, sonic booms, or other natural or human-caused disturbances. Environmental conditions such as tide, wind speed, air temperature, and swell will also be recorded. Time-lapse photography or video will be used during daylight launches to document the behavior of mother-pup pairs during launch activities. For launches during the harbor seal pupping season (March through June), follow-up surveys will be made within 2 weeks of the launch to ensure that there were no adverse effects on any marine mammals. A report detailing the species, number of animals observed, behavior, reaction to the launch noise, time to return to the haul-out site, any adverse behavior and environmental conditions will be submitted to NMFS within 90 days of the launch.

Monitoring for the NCI

Monitoring will be conducted on the NCI (San Miguel, Santa Cruz, and Santa Rosa Islands) whenever a sonic boom over 1 pound per square foot (psf) is predicted (using the most current sonic boom modeling programs) to impact one of the islands between March 1 and June 30, over 1.5 psf between July 1 and September 30, and over 2 psf between October 1 and February 28. Monitoring will be conducted at the haul-out site closest to the predicted sonic boom impact area. Monitoring will be conducted by a NMFS-approved marine mammal biologist experienced in surveying large numbers of marine mammals. Monitoring will commence at least 72 hours prior to the launch and continue until at least 48 hours after the launch (if a sonic boom was detected during the actual launch).

Sonic boom prediction modeling is not conducted prior to missile launches because of their trajectories, which do not have the potential to overfly and/or impact the NCI with sonic booms. Launches from the following sites would not overfly the NCI: Space Launch Complexes 2, 3, 6, and 8; Launch Facility 576–E, Test pad 01; and missile launch facilities 4, 9, 10, 23, and 24.

Monitoring will include multiple surveys each day that record the species, number of animals, general behavior, presence of pups, age class, gender, and reaction to launch noise, sonic booms, or other natural or human-caused disturbances. Environmental

conditions such as tide, wind speed, air temperature, and swell will also be recorded. Due to the large numbers of pinnipeds found on some beaches of San Miguel Island, smaller focal groups should be monitored in detail rather than the entire beach population. A general estimate of the entire beach population should be made once a day and their reaction to the launch noise noted. Photography or video will be used during daylight launches to document the behavior of mother-pup pairs or dependent pups during launch activities. During the pupping season of any species affected by a launch, follow-up surveys will be made within 2 weeks of the launch to ensure that there were no adverse effects on any marine mammals. A report detailing the species, number of animals observed, behavior, reaction to the launch noise, time to return to the haul-out site, any adverse behavior and environmental conditions will be submitted to NMFS within 90 days of the launch.

Harbor Activities

United Launch Alliance will designate a qualified and biologically trained observer to monitor the area for pinnipeds during all harbor activities. During nighttime activities, United Launch Alliance will illuminate the harbor area and the observer will use a night vision scope.

Monitoring activities will consist of the following:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities.

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough (less than or equal to 2 ft (0.61 m) for pinnipeds to haul out.

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

Reporting Measures

A report containing the following information must be submitted to NMFS within 90 days after each launch: (1) Date(s) and time(s) of each launch; (2) date(s), location(s), and preliminary findings of any research activities related to monitoring the effects on launch noise and sonic booms on marine mammal populations; and (3) results of the monitoring programs, including but not necessarily limited to (a) numbers of pinnipeds present on the haul-out prior to commencement of the launch, (b) numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of launch noise, (c) the length of time(s) pinnipeds remained off the haul-out or rookery, (d) the numbers of pinniped adults or pups that may have been injured or killed as a result of the launch, and (4) any behavioral modifications by pinnipeds that likely were the result of launch noise or the sonic boom.

If a freshly dead or seriously injured pinniped is found during post-launch monitoring, the incident must be reported within 48 hours to the NMFS Office of Protected Resources and the NMFS West Coast Regional Office.

An annual report must be submitted to NMFS on March 1 of each year. The first report will cover the time period from issuance of the LOA through February 28, 2015. Each annual report after that time will cover the time period from March 1 through February 28. Information in the annual reports will describe any incidental takings under an LOA not reported in the 90-day launch reports, such as the aircraft test program and helicopter operations and any assessments made of their impacts on hauled-out pinnipeds, summarize the information from the 90-day launch reports, and describe the information collected during monitoring of *Delta Mariner* operations. Information related to *Delta Mariner* operations that must be included in the annual report include: (1) Date, time, and duration of activity; (2) weather; (3) tide status; (4) composition (species, gender, and age class) and locations of haul-out group(s); (5) horizontal visibility; and (6) and results of the monitoring program, which include (i) number and species of pinnipeds present on haul-out(s) prior to start of activity and behavioral patterns, (ii) number and species of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of noise related to the activity, (iii) brief description of any activity/action that causes animal(s) to flush, (iv) length of time pinnipeds remained off the haul-out or rookery, and (v) noted behavioral modifications by pinnipeds that were likely the result of the activity in the harbor.

A final report must be submitted to NMFS no later than 180 days prior to expiration of these regulations. This report must summarize the findings made in all previous reports and assess both the impacts at each of the major rookeries and the cumulative impact on pinnipeds and any other marine mammals from the specified activities.

Adaptive Management

NMFS has included an adaptive management component in the regulations governing the take of marine mammals incidental to the USAF activities at VAFB. In accordance with 50 CFR 216.105(c), regulations must be based on the best available information. As new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or in part, after notice and opportunity for public review. The use of adaptive management will allow NMFS to consider new information from different sources to determine if mitigation or monitoring measures should be modified (including additions or deletions) if new data suggest that such modifications are appropriate for subsequent LOAs. The following are some of the possible sources of applicable data:

- Results from the USAF's monitoring from the previous year;
- Results from general marine mammal and/or sound research or studies; or
- Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

In addition, LOAs shall be withdrawn or suspended if, after notice and opportunity for public comment, the Assistant Administrator finds, among other things, the regulations are not being substantially complied with or the taking allowed is having more than a negligible impact on the species or stock, as allowed for in 50 CFR 216.106(e). That is, should monitoring and reporting indicate that the operations and activities from VAFB launch complexes or at VAFB harbor are having more than a negligible impact on marine mammals, then NMFS reserves the right to modify the regulations and/or withdraw or suspend an LOA after public review.

Comments and Responses

On December 9, 2013 (78 FR 73794), we published a proposed rule in response to the USAF's request to take marine mammals incidental to launch, aircraft, and helicopter operations from VAFB launch complexes and *Delta Mariner* operations, cargo unloading activities, and harbor maintenance dredging in support of the Delta IV/EELV launch activity on south VAFB for a period of 5 years, requesting comments, information, and suggestions concerning the request. During the 30-day public comment period, we

received a letter from the Marine Mammal Commission. The letter stated that the Marine Mammal Commission concurs with NMFS' preliminary finding and therefore recommends that NMFS issue the final rule, subject to inclusion of the proposed mitigation, monitoring, and reporting measures. We have included all of the mitigation, monitoring, and reporting measures contained in the proposed rule in this final rule. We did not receive any other letters or comments from the public on the proposed rule.

Numbers of Marine Mammals Estimated To Be Taken by Harassment

The marine mammal species NMFS believes likely to be taken by Level B harassment incidental to launch and aircraft and helicopter operations at VAFB are harbor seals, California sea lions, northern elephant seals, northern fur seals, and Steller sea lions. NMFS believes that all of these species except for northern fur seals are likely to be taken by Level B harassment incidental to *Delta Mariner* operations at the VAFB harbor. All of these species are protected under the MMPA, and none are listed under the Endangered Species Act (ESA). On November 4, 2013, NMFS published a final rule delisting the eastern distinct population segment (DPS) of Steller sea lions (78 FR 66139). We have determined that this DPS has recovered and no longer meets the definition of an endangered or threatened species under the ESA. The Steller sea lions at VAFB are part of the eastern DPS. Numbers of animals that may be taken by Level B harassment are expected to vary due to factors such as type of SLV, location of the sonic boom, weather conditions (which can influence the size of the sonic boom), the time of day, and the time of year, as well as launch trajectory and the number of launches in a given year. For this reason, ranges are given for the harassment estimates of marine mammals. Aircraft operations will occur frequently but will avoid pinniped haul-out areas and are unlikely to disturb pinnipeds.

As noted earlier, sightings of Guadalupe fur seals have been extremely rare the last few decades at VAFB and on the NCI. Therefore, no takes by harassment are anticipated for this species incidental to the proposed activities.

Take estimates at VAFB and the NCI from launches are based on decades of visual observations and systematic marine mammal surveys conducted at the launch sites and known pinniped haul-outs on VAFB and the NCI. Surveys are conducted by VAFB marine mammal monitors, as well as National Park Service employees. Take estimates at the VAFB harbor are based on visual observations conducted there since 2001 by marine mammal monitors noting observations during *Delta Mariner* operations.

Estimated Takes at VAFB

The following text describes the potential range of takes possible of pinnipeds on VAFB during launches. Table 4 provides this information in outline form.

Harbor seals: As many as 400 harbor seals per launch may be taken. Depending on the type of rocket being launched, the time of day, time of the year, weather conditions, tide and swell conditions, the number of seals that may be taken will range between 0 and 400. Launches and aircraft operations may occur at any time of the year, so any age classes and gender may be taken.

California sea lions: As many as 300 sea lions per launch may be taken. Sea lions at VAFB are usually juveniles of both sexes and sub-adult males that haul out in the fall during the post breeding dispersal. Births generally do not occur at VAFB, but five pups were observed at VAFB in 2003, an El Nino year, although all were abandoned by their mothers and died within several days of birth. Sick or emaciated weaned pups may also haul out briefly.

Northern elephant seals: As many as 100 elephant seals per launch may be taken. Weaned elephant seal pups, juveniles, or young adults of both sexes, may occasionally haul out at VAFB for several days to rest or as long as 30 days to molt. Injured or sick seals may also haul out briefly.

Steller sea lions: Steller sea lions have only been noted at VAFB in April and May of 2012 and again from February-April 2013. Numbers were small. As many as 36 Steller sea lions may be taken per launch.

Northern fur seals: There are no reports of northern fur seals at VAFB. Therefore, it is unlikely that any fur seals will be taken.

TABLE 4—PREDICTED LEVEL B HARASSMENT TAKES OF PINNIPEDS ON VAFB ON A PER LAUNCH BASIS

Species	Age groups	Sex	Reproductive condition	Takes per launch from noise or visual disturbance	Takes from aircraft operations
Pacific harbor seal	All	Both	Pupping and breeding March through June.	0–400	None.
California sea lion	All	Both	Pupping and breeding June through July, but no pupping expected at VAFB.	0–300	None.
Northern elephant seal.	All	Both	No pregnant or breeding animals expected; mostly "weaners".	0–100	None.
Steller sea lion	All	Both	No pupping or breeding at VAFB	0–36	None.
Northern fur seal	Mostly juveniles	Both	Only stranded animals	None	None.

Estimated Takes on the NCI

Sonic booms created by SLVs may impact marine mammals on the NCI, particularly San Miguel Island. Missile launches utilize westward trajectories so do not cause sonic boom impacts to the NCI. Sonic boom modeling software will continue to be used to predict the area of sonic boom impact and magnitude of the sonic boom on the NCI based on the launch vehicle, speed, trajectory, and meteorological conditions. Prior to each SLV launch, a predictive sonic boom map of the impact area and magnitude of the sonic boom will be generated. Based on previous monitoring of sonic booms created by SLVs on San Miguel (Thorson *et al.*, 1999a: 1999b), it is estimated that as much as approximately 25 percent of the marine mammals may be disturbed on SMI (Thorson *et al.*, 1999a; 1999b). Most sonic booms that reach San Miguel Island are small (<1 psf), although larger sonic booms are possible but rarely occur. A conservative take estimate of as much as 25 percent of the animals present is used for each species per launch. Table 5 presents the potential

numbers of takes per launch event on the NCI.

TABLE 5—PREDICTED LEVEL B HARASSMENT TAKES ON THE NCI ON A PER LAUNCH BASIS

Species	Age groups	Sex	Reproductive condition	Takes per launch from sonic booms
Pacific harbor seal	All	Both	Pupping and breeding March through June.	0–200.
California sea lion	All	Both	Pupping and breeding June through July.	0–6,000 pups 0–3,000 juveniles and adults.
Northern elephant seal.	All	Both	Pupping December through March	0–500 pups 1,000 juveniles and adults.
Steller sea lion	Adult	Both	No pupping or breeding at NCI	None; virtually no presence on San Miguel.
Northern fur seal	Mostly juveniles	Both	Pupping and breeding in June and July.	0–250 pups 0–1,000 juveniles and adults.

Estimated Takes From Delta Mariner Operations

Estimates of the numbers of marine mammals that might be affected are based on consideration of the number of animals that could be disturbed appreciably by approximately 43 days for Pacific harbor seals and California sea lions, 8 days for northern elephant seals, and 3 days for Steller sea lions. The lower number of days for northern elephant seals and Steller sea lions are based on the fact that those species haul-out in fewer numbers and fewer times throughout the year at the VAFB harbor than harbor seals or California sea lions.

Based on previous monitoring reports, with the same activities conducted in the proposed operations area, we estimate that approximately 1,161 Pacific harbor seals, 129 California sea lions, 24 northern elephant seals, and 24 Steller sea lions could be potentially affected by Level B behavioral harassment over the course of each year of activities. We base these estimates on historical pinniped survey counts from 2001 to 2011, and calculated takes by multiplying the average of the maximum abundance by the number of days noted above (i.e., the total number of operational days). Thus, the USAF requests authorization to incidentally harass approximately 1,161 Pacific harbor seals (27 animals by 43 days), 129 California sea lions (3 animals by 43 days), 24 northern elephant seals (3 animals by 8 days), and 24 Steller sea lions (8 animals by 3 days).

Table 6 presents the maximum number of potential takes on an annual basis. However, actual takes could be lower than this number. The range of animals that could be taken is based on zero animals responding up to the maximum for each launch event plus *Delta Mariner* operations. Although not anticipated between 2014 and early 2019, up to 50 launches per year are authorized for taking of marine mammals. However, as noted in Table 2 earlier in this document, no more than 12–19 launches are actually anticipated to occur on an annual basis between 2014 and 2019. Additionally, not all launches will overfly the NCI. However, the numbers presented in Table 6 represent the maximum end of the range and assume that all 50 launches would overfly the NCI. Therefore, actual takes will likely be much lower than the maximum estimate.

TABLE 6—TOTAL NUMBER OF ANNUAL LEVEL B TAKES FROM A TOTAL OF 50 LAUNCHES AND DELTA MARINER OPERATIONS

[Numbers are likely overestimated as not all launches would overfly the NCI]

Species	Total number of authorized Level B takes annually
Pacific harbor seal	31,161
California sea lion	465,129
Northern elephant seal	80,024
Steller sea lion	1,824
Northern fur seal	62,500

With the incorporation of mitigation measures described earlier in this document, the USAF and NMFS expect that only Level B incidental harassment may occur as a result of the activities and that these events will result in no detectable impact on marine mammal species or stocks or on their habitats.

Negligible Impact Analysis and Determination

We have defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." In making a negligible impact determination, we consider:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited);

(3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

As mentioned previously, we estimate that five species of marine mammals could be potentially affected by Level B harassment from launch activities and that four of those five species could be potentially affected by Level B harassment from *Delta Mariner* operations.

For reasons stated previously in this document, the specified activities are not likely to cause long-term behavioral disturbance, abandonment of the haul-out area, serious injury, or mortality because:

(1) The effects of the activities are expected to be limited to short-term startle responses and localized behavioral changes. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

(2) Launches will likely not occur more than about 12–19 times per year over the next 5 years.

(3) *Delta Mariner* off-loading operations and associated cargo movements within the harbor would occur at a maximum frequency of four

times per year, and the vessel's arrival and departure would occur during daylight hours at high tide when the haul out areas are fully submerged and few, if any, pinnipeds are present in the harbor;

(4) The relatively slow operational speed of the *Delta Mariner* (1.5 to 2 kts; 1.72 mph) during its approach to the harbor at high tide and the vessel's slow operational speed (0.75 kts; 0.86 mph) during its approach to the wharf;

(5) There is no potential for large-scale movements leading to serious injury or mortality;

(6) Many of the specified activities do not occur near rookeries;

(7) The availability of alternate areas near the harbor for pinnipeds to avoid the resultant noise from the maintenance and vessel operations; and

(8) Results from previous monitoring reports that support our conclusions that the pinnipeds returned to the haul-out sites during periods of low tide after the disturbance and do not permanently abandon a haul-out site during the conduct of harbor maintenance and *Delta Mariner* operations or launches from VAFB.

As confirmed by past monitoring reports, we do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of the activities, and did not authorize injury, serious injury or mortality. These species may exhibit behavioral modifications, including temporarily vacating the area during the activities to avoid the resultant acoustic and visual disturbances. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities are not expected to impact rates of recruitment or survival. Further, these activities would not adversely impact marine mammal habitat.

We have determined, provided that the USAF carries out the previously described mitigation and monitoring measures, that the impact of conducting the activities may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we have determined that the total taking from the activities will have a negligible impact on the affected species or stocks; and that impacts to affected species or stocks of marine mammals would be mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(A) of the MMPA also requires us to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (northeastern Pacific Ocean) that implicate section 101(a)(5)(A) of the MMPA.

Endangered Species Act

There are no species listed as threatened or endangered in the activity area. Therefore, consultation under section 7 of the ESA is not required.

National Environmental Policy Act (NEPA)

The USAF prepared a Final EA and issued a Finding of No Significant Impact (FONSI) in 1997 as part of its application for an incidental take authorization. On March 1, 1999 (64 FR 9925), NMFS adopted this EA as provided for by the Council on Environmental Quality regulations. In 2003, NMFS prepared its own EA and issued a FONSI for the final rule issued in February, 2004. In January 2009, NMFS prepared a new EA and issued a FONSI for the final rule issued in February 2009.

In 2001, the USAF prepared an EA for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base. In 2005, we prepared an EA augmenting the information contained in the USAF's EA and issued a FONSI on the issuance of an Incidental Harassment Authorization for United Launch Alliance's harbor activities in accordance with section 6.01 of the NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999).

NMFS conducted a new analysis, pursuant to NEPA, to determine whether the issuance of MMPA rulemaking and subsequent LOA(s) may have a significant effect on the human environment. In February 2014, NMFS released an EA and issued a FONSI for this action. NMFS determined that issuance of these regulations and subsequent LOA would not significantly impact the quality of the human environment; therefore, preparation of an Environmental Impact Statement was not required for this action.

National Marine Sanctuaries Act

We previously discussed the promulgation of MMPA regulations and issuing associated LOAs with the NOAA National Ocean Service's Office of National Marine Sanctuaries to determine whether or not NMFS' action is likely to destroy, cause the loss of, or injure any national marine sanctuary resources. On December 12, 2008, the Office of National Marine Sanctuaries determined that no further consultation with NMFS was required on its proposed action as this action is not likely to destroy, cause the loss of, or injure any national marine sanctuary resources. The activities in this rulemaking are identical to those discussed in 2008.

Classification

Pursuant to the procedures established to implement section 6 of Executive Order 12866, the Office of Management and Budget has determined that this final rule is not significant.

At the proposed rule stage, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The 30th Space Wing, USAF, and their contractors are the entities that will be affected by this rulemaking, none of which are considered a small governmental jurisdiction, small organization, or small business, as defined by the Regulatory Flexibility Act. United Launch Alliance, the contractor hired by the USAF to conduct the harbor activities and *Delta Mariner* operations, is a joint venture between Boeing and Lockheed Martin. The Small Business Administration defines a small entity as one that is independently owned and operated and not dominant in its field of operation. United Launch Alliance employs approximately 3,900 employees working at sites across the country, has annual revenues exceeding $1 billion, and is dominant in the field of aerospace vehicle launching. United Launch Alliance therefore does not meet the definition of a small entity. No comments were received on the certification. Accordingly, a regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties,

Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: February 19, 2014.

Samuel D. Rauch III,

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

For reasons set forth in the preamble, 50 CFR part 217 is amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Subpart G is added to part 217 to read as follows:

Subpart G—Taking of Marine Mammals Incidental to U.S. Air Force Launches, Aircraft and Helicopter Operations, and Harbor Activities Related to Launch Vehicles From Vandenberg Air Force Base (VAFB), California

Sec.

Subpart G—Taking of Marine Mammals Incidental to U.S. Air Force Launches, Aircraft and Helicopter Operations, and Harbor Activities Related to Launch Vehicles From Vandenberg Air Force Base (VAFB), California

§ 217.60 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the 30th Space Wing, United States Air Force (USAF), at Vandenberg Air Force Base and those persons it authorizes to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to:

(1) Launching up to 15 space and each year from Vandenberg Air Force Base, for a total of up to 75 missiles over the 5-year period of these regulations,

(2) Launching up to 35 rockets each year from Vandenberg Air Force Base, for a total of up to 175 rocket launches over the 5-year period of these regulations,

(3) Aircraft flight test operations,

(4) Helicopter operations from Vandenberg Air Force Base, and

(5) *Delta Mariner* (or a similar vessel) operations, cargo unloading activities, and harbor maintenance dredging.

(b) The taking of marine mammals by the USAF may be authorized in a Letter of Authorization only if it occurs from the space launch complexes, launch facilities, and test pads on north and south Vandenberg Air Force Base and the Vandenberg Air Force Base harbor on South Base.

§ 217.61 Effective dates.

Regulations in this subpart are effective from March 26, 2014 through March 26, 2019.

§ 217.62 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 217.60 of this chapter, the Holder of the Letter of Authorization (herein after the USAF) may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 217.60(b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate Letter of Authorization.

(b) The activities identified in § 217.60(a) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 217.60(a) of this chapter is limited to the indicated number of Level B harassment takes on an annual basis of the following species:

(1) Harbor seals (*Phoca vitulina*)—31,161;

(2) California sea lions (*Zalophus californianus*)—465,129;

(3) Northern elephant seals (*Mirounga angustirostris*)—80,024;

(4) Northern fur seals (*Callorhinus ursinus*)—62,500; and

(5) Steller sea lions (*Eumetopias jubatus*)—1,824.

§ 217.63 Prohibitions.

Notwithstanding takings contemplated in § 217.62(c) and authorized by a Letter of Authorization issued under §§ 216.106 and 217.66 of this chapter, no person in connection with the activities described in § 217.60 may:

(a) Take any marine mammal not specified in § 217.62(c);

(b) Take any marine mammal specified in § 217.62(c) other than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in § 217.62(c) if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 and 217.66 of this chapter.

§ 217.64 Mitigation.

(a) When conducting the activities identified in § 217.60(a), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.66 of this chapter must be implemented. These mitigation measures include (but are not limited to):

(1) All aircraft and helicopter flight paths must maintain a minimum distance of 1,000 ft (305 m) from recognized seal haul-outs and rookeries (e.g., Point Sal, Purisima Point, Rocky Point), except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting), which may require approaching pinniped haul-outs and rookeries closer than 1,000 ft (305 m).

(2) For missile and rocket launches, holders of Letters of Authorization must avoid, whenever possible, launches during the harbor seal pupping season of March through June, unless constrained by factors including, but not limited to, human safety, national security, or for space vehicle launch trajectory necessary to meet mission objectives.

(3) Vandenberg Air Force Base must avoid, whenever possible, launches which are predicted to produce a sonic boom on the Northern Channel Islands during harbor seal, elephant seal, California sea lion, and northern fur seal pupping seasons of March through June.

(4) If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred, the launch procedure and the monitoring methods must be reviewed, in cooperation with the National Marine Fisheries Service (NMFS), and appropriate changes must be made through modification to a Letter of Authorization, prior to conducting the next launch under that Letter of Authorization.

(5) *Delta Mariner* (or a similar vessel) operations, cargo unloading, and harbor maintenance dredging measures:

(i) If activities occur during nighttime hours, turn on lighting equipment before dusk. Lights must remain on for the entire night to avoid startling pinnipeds.

(ii) Initiate operations before dusk.

(iii) Keep construction noises at a constant level (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present.

(iv) Initiate a gradual start-up of activities to ensure a gradual increase in noise levels if activities cease for longer than 30 minutes and pinnipeds are in the area.

(v) Conduct visual monitor, by a qualified observer, of the harbor seals on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of activities described in § 217.60(a).

(vi) The *Delta Mariner* and accompanying vessels must enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks; reducing speed to 1.5 to 2 knots (1.5–2 nm/hr; 2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel must enter the harbor stern first, approaching the wharf and moorings at less than 0.75 knot (1.4 km/hr).

(vii) Explore alternate dredge methods and introduce quieter techniques and equipment as they become available.

(6) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 217.65 Requirements for monitoring and reporting.

(a) Unless specified otherwise in the Letter of Authorization, the USAF must notify the Administrator, West Coast Region, NMFS, by letter or telephone, at least 2 weeks prior to activities possibly involving the taking of marine mammals. If the authorized activity identified in § 217.60(a) is thought to have resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in § 217.62(c), then the USAF must notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301–427–8401), within 48 hours of the discovery of the injured or dead animal.

(b) To conduct monitoring of launch activities, the USAF must designate qualified, on-site individuals approved in advance by NMFS, as specified in the Letter of Authorization, to:

(1) Conduct observations on pinniped activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haul-out, for at least 72 hours prior to any planned launch occurring during the harbor seal pupping season (1 March through 30 June) and continue for a period of time not less than 48 hours subsequent to launching.

(2) For launches during the harbor seal pupping season (March through June), conduct follow-up surveys within 2 weeks of the launch to ensure that there were no adverse effects on any marine mammals,

(3) Monitor haul-out sites on the Northern Channel Islands, if it is determined by modeling that a sonic boom of greater than 1 psf is predicted to impact one of the Islands between March 1 and June 30, greater than 1.5 psf between July 1 and September 30, and greater than 2 psf between October 1 and February 28. Monitoring will be conducted at the haul-out site closest to the predicted sonic boom impact area.

(4) Investigate the potential for spontaneous abortion, disruption of effective female-neonate bonding, and other reproductive dysfunction,

(5) Supplement observations on Vandenberg and on the Northern Channel Islands with video-recording of mother-pup seal responses for daylight launches during the pupping season,

(6) Conduct acoustic measurements of those launch vehicles that have not had sound pressure level measurements made previously, and

(7) Include multiple surveys each day that surveys are required that record the species, number of animals, general behavior, presence of pups, age class, gender and reaction to launch noise, sonic booms or other natural or human caused disturbances, in addition to recording environmental conditions such as tide, wind speed, air temperature, and swell.

(c) To conduct monitoring of harbor activities, the USAF must designate qualified, on-site individuals approved in advance by NMFS, as specified in the Letter of Authorization. During nighttime activities, the harbor area will be illuminated, and the observer will use a night vision scope. Monitoring activities will consist of the following:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities.

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough (less than or equal to 2 ft (0.61 m) for pinnipeds to haul out.

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

(d) Holders of Letters of Authorization must conduct additional monitoring as required under a Letter of Authorization.

(e) The USAF must submit a report to the West Coast Regional Administrator, NMFS, within 90 days after each launch. This report must contain the following information:

(1) Date(s) and time(s) of the launch,

(2) Design of the monitoring program, and

(3) Results of the monitoring program, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haul-out prior to commencement of the launch,

(ii) Numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of launch noise,

(iii) The length of time pinnipeds remained off the haul-out or rookery,

(iv) Numbers of pinniped adults, juveniles or pups that may have been injured or killed as a result of the launch, and

(v) Behavioral modifications by pinnipeds that were likely the result of launch noise or the sonic boom.

(f) An annual report must be submitted on March 1 of each year.

(g) A final report must be submitted at least 180 days prior to expiration of these regulations. This report will:

(1) Summarize the activities undertaken and the results reported in all previous reports,

(2) Assess the impacts at each of the major rookeries,

(3) Assess the cumulative impacts on pinnipeds and other marine mammals from the activities specified in § 217.60(a), and

(4) State the date(s), location(s), and findings of any research activities related to monitoring the effects on launch noise, sonic booms, and harbor activities on marine mammal populations.

§ 217.66 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the USAF must apply for and obtain a Letter of Authorization.

(b) A Letter of Authorization, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If a Letter of Authorization expires prior to the expiration date of these regulations, the USAF must apply for and obtain a renewal of the Letter of Authorization.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by a Letter of Authorization, the USAF must apply for and obtain a modification of the Letter of Authorization as described in § 217.67.

(e) The Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (i.e.,

mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the Letter of Authorization shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a Letter of Authorization shall be published in the **Federal Register** within 30 days of a determination.

§ 217.67 Renewals and modifications of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 and § 217.66 of this chapter for the activity identified in § 217.60(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 217.67(c)(1) of this chapter), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous Letter of Authorization under these regulations were implemented.

(b) For Letter of Authorization modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 217.67(c)(1)) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed Letter of Authorization in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comment before issuing the Letter of Authorization.

(c) A Letter of Authorization issued under § 216.106 and § 217.66 of this chapter for the activity identified in § 217.60(a) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the USAF regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a Letter of Authorization:

(A) Results from the USAF's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed Letter of Authorization in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.62(c) of this chapter, a Letter of Authorization may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

[FR Doc. 2014–03958 Filed 2–21–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622 and 635

[Docket No. 100510220–4111–06]

RIN 0648–AY87 and 0648–AY90

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Highly Migratory Species; Withdrawal of Emergency Regulations Related to the Deepwater Horizon MC252 Oil Spill

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

ACTION: Termination of emergency regulations.

SUMMARY: NMFS terminates the emergency regulations promulgated in response to the Deepwater Horizon MC252 oil spill. The circumstances that created the need for emergency short-term fishing closures no longer exist. As of April 19, 2011, NMFS reopened all areas of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) that were previously closed to all fishing because of the oil spill. NMFS has worked closely with the U.S. Food and Drug Administration (FDA) to assess whether seafood from the Gulf EEZ is tainted or contaminated to levels that pose a risk to human health. NMFS and FDA have determined that seafood from all previously closed areas of the Gulf EEZ due to the oil spill is safe for human consumption. Therefore, NMFS withdraws the emergency regulations that established a protocol for closing and reopening portions of the Gulf, South Atlantic, and Caribbean EEZ that were or could potentially be affected by the oil spill. The intent of this rule is to withdraw the now obsolete regulations from the codified text. While NMFS and FDA determined that seafood from areas previously closed due to the oil spill is safe for human consumption, NOAA and other natural resource trustees continue to study the impacts of the oil spill through the natural resource damage assessment process to identify the extent of injuries to natural resources and services, as well as the proposed restoration alternatives to compensate for such injuries.

DATES: The rule is effective February 24, 2014.

ADDRESSES: Electronic copies of the documents supporting this final rule may be downloaded from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/deepwater_horizon_oil_spill.htm.*

FOR FURTHER INFORMATION CONTACT: Anik Clemens, telephone: 727–824–5305, email: *anik.clemens@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provides the legal authority for the withdrawal of emergency regulations that respond to an oil spill under section 305(c).

Background

NMFS responded to the April 20, 2010 Deepwater Horizon MC252 oil spill by closing a portion of the Gulf EEZ to all fishing through an emergency rule effective May 2, 2010 (75 FR 24822, May 6, 2010). The intent of the emergency rule was to prohibit the harvest of adulterated seafood. A second emergency rule effective May 7, 2010 (75 FR 26679, May 12, 2010), expanded the closed area in the Gulf.

The oil spill continually shifted locations in the Gulf and had the potential to reach the South Atlantic and/or Caribbean EEZ, due to wind speed and direction, currents, waves, and other weather patterns. As the

weather conditions controlling the movement of the oil changed, the oil could have moved in directions not initially predicted. A third emergency rule effective May 11, 2010 (75 FR 27217, May 14, 2010) established regulations allowing NMFS to close and reopen portions of the Gulf, South Atlantic, and Caribbean EEZ to all fishing, as necessary, as new information became available, to respond to the evolving nature of the oil spill. NMFS announced new closed areas via Southeast Fishery Bulletins and NOAA Weather Radio. The public could also receive updated closure information by visiting the Southeast Regional Office Web site, calling the Deepwater Horizon Oil Spill Hotline, signing up to receive a text message about the closure information, or following Twitter to get a tweet when the closed area changed. The largest area of the Gulf EEZ that was closed due to the oil spill covered 88,522 square miles (229,270 square km), representing 37 percent of the Gulf EEZ, on June 2, 2010.

Need for Termination of Regulations

On July 22, 2010, NMFS began reopening significant areas of the Gulf that had been previously closed due to the oil spill. The closed area was divided into eight smaller areas, where testing occurred from the outer closed areas in toward the core area surrounding the incident site. NMFS and FDA conducted both sensory and chemical tests in these areas to determine if seafood was safe for human consumption, and reopened areas based on the results of these tests. On April 19, 2011, NMFS reopened the last area surrounding the incident site. NMFS and FDA determined that sensory testing from this last area showed no detectable oil or dispersant odors or flavors in the samples, and the results of chemical analysis were well below levels of concern for oil. Therefore, all portions of the Gulf EEZ previously closed to all fishing due to the oil spill are now open and the seafood has been determined to be safe to eat.

The third emergency rule stated that the emergency regulations codified in Title 50 of the Code of Federal Regulations would remain in effect until terminated by subsequent rulemaking, which would occur once the existing emergency conditions from the oil spill no longer exist. Section 305(c) of the Magnuson-Stevens Act provides the authority for implementing emergency regulations responding to an oil spill, as well as the withdrawal of such regulations. "Any emergency regulation or interim measure promulgated under this subsection that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published . . ." Because the public was given an opportunity to comment on each emergency rule related to the Deepwater Horizon MC252 oil spill and the circumstances that created the need for emergency short-term fishing closures no longer exist, NMFS withdraws the emergency regulations related to the Deepwater Horizon MC252 oil spill from the codified text. While NMFS and FDA determined that seafood from areas previously closed due to the oil spill is safe for human consumption, NOAA and other natural resource trustees continue to study the impacts of the oil spill through the natural resource damage assessment process to identify the extent of injuries to natural resources and services, as well as the proposed restoration alternatives to compensate for such injuries.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that termination of the emergency regulations related to the Deepwater Horizon MC252 oil spill is consistent with the Magnuson-Stevens Act and other applicable law.

This action has been determined to be not significant for purposes of E.O. 12866.

The AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Prior notice and the opportunity for public comment is unnecessary because the public was given an opportunity to comment on each emergency rule related to the Deepwater Horizon MC252 oil spill, and now the circumstances that created the need for emergency short-term fishing closures no longer exist. NMFS and FDA have determined that seafood from all previously closed areas of the Gulf EEZ due to the oil spill is safe for human consumption. All that remains is to withdraw the now obsolete regulations related to the Deepwater Horizon MC252 oil spill from the codified text.

For the reasons stated above, the AA also finds good cause to waive the 30-day delay in effective date of this rule under 5 U.S.C 553(d)(3).

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

List of Subjects in 50 CFR Parts 622 and 635

Fisheries, Fishing, Deepwater Horizon.

Dated: February 18, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR parts 622 and 635 are amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

§ 622.14 [Removed and Reserved]

■ 2. Section 622.14 is removed and reserved.

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. The authority citation for part 635 continues to read as follows:

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

§ 635.21 [Amended]

■ 4. In § 635.21, paragraph (a)(4)(vii) is removed.

[FR Doc. 2014–03914 Filed 2–21–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 100120035–4085–03]

RIN 0648–AY26

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 14

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

ACTION: Final rule.

SUMMARY: This rule implements approved measures in Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). Amendment 14 was developed by the Mid-Atlantic Fishery

Management Council (Council) to improve the catch monitoring program for the MSB fisheries, with a focus on better evaluation of the incidental catch of river herring and shad, and to address river herring and shad bycatch issues in the mackerel fishery. The approved measures include: Revising vessel reporting requirements (vessel trip reporting frequency, pre-trip and pre-landing vessel notification requirements, and requirements for vessel monitoring systems); expanding vessel requirements to maximize observer's ability to sample catch at-sea; minimizing the discarding of unsampled catch; and a measure to allow the Council to set a cap on river herring and shad catch in the Atlantic mackerel fishery. NMFS disapproved three measures in Amendment 14: A dealer reporting requirement; a cap that, if achieved, would require vessels discarding catch before it had been sampled by observers (known as slippage) to return to port; and a requirement for increased observer coverage on limited access midwater trawl and small-mesh bottom trawl mackerel trips, coupled with an industry contribution of $325 per day toward observer costs. NMFS disapproved these measures because it determined that they are inconsistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and other applicable law. Therefore, these three measures are not implemented in this action.

DATES: Effective March 26, 2014, except for the amendments to § 648.7(b)(3)(ii)–(iii) and § 648.10, which are effective April 25, 2014.

ADDRESSES: Copies of supporting documents used by the Council, including the Environmental Impact Statement (EIS) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The EIS/RIR/IRFA is also accessible via the Internet at *http://www.nero.nmfs.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930, and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

Information on the Federal Vessel Monitoring System (VMS) reimbursement program is available from the Pacific States Marine Fisheries Commission, 205 SE Spokane Street, Suite 100, Portland, OR 97202 (Web site: *http://www.psmfc.org/,* Telephone Number: 503–595–3100, Fax Number: 503–595–3232) and from the NMFS VMS Support Center at 888–219–9228.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, phone 978–281–9195, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 2010 (75 FR 32745), the Council published a notice of intent (NOI) to prepare an EIS for Amendment 14 to the MSB FMP to consider measures to: Implement catch share systems for the squid fisheries, increase fishery monitoring to determine the significance of river herring and shad incidental catch in the MSB fisheries, and measures to minimize bycatch and/or incidental catch of river herring and shad. The Council subsequently conducted scoping meetings during June 2010 to gather public comments on these issues. Based on the comments submitted during scoping, the Council removed consideration of catch shares for squids from Amendment 14 at its August 2010 meeting.

Following further development of Amendment 14, the Council conducted MSA and National Environmental Policy Act public hearings in April and May 2012, and, following the public comment period on the draft EIS that ended on June 4, 2012, the Council adopted Amendment 14 on June 14, 2012. The Council submitted Amendment 14 to NMFS for review on February 26, 2012. Following a series of revisions, the Council submitted a revised version of Amendment 14 to NMFS on June 3, 2013. A Notice of Availability (NOA) for Amendment 14, as submitted by the Council for review by the Secretary of Commerce (Secretary), was published on August 12, 2013 (78 FR 48852), with a comment period ending September 16, 2013. A proposed rule for Amendment 14 was published on August 29, 2013 (78 FR 53404), with a comment period ending October 11, 2013. On November 7, 2013, NMFS partially approved Amendment 14 on behalf of the Secretary. NMFS sent a letter to the Council on November 7, 2013, informing it of the partial approval of Amendment 14.

The Council spent several years developing this amendment, and it contains many measures that will improve MSB management and that can be administered by NMFS. NMFS supports improvements to fishery-dependent data collections, either through increasing reporting requirements or expanding the at-sea monitoring of the MSB fisheries. NMFS also shares the Council's concern for reducing river herring and shad bycatch and unintended catch, and unnecessary discarding. However, three measures in Amendment 14 lacked adequate rationale or development by the Council, and NMFS had utility and legal concerns with the implementation of these measures. These measures were: A requirement for mackerel and longfin squid dealers to document how they estimated species composition of the weights of the fish they report; a cap that, if reached, would require vessels discarding catch before it had been sampled by observers to return to port; and a recommendation for 100-percent observer coverage on all limited access midwater trawl and Tier 1 small-mesh bottom trawl mackerel trips, 50-percent coverage on Tier 2 small-mesh bottom trawl trips, and 25-percent coverage on Tier 3 small-mesh bottom trawl trips, coupled with an industry contribution of $325 per day toward observer costs. NMFS expressed potential concerns with these measures throughout the development of this amendment, but these measures have strong support from some stakeholders. The proposed rule for Amendment 14 described NMFS's concerns about these measures' consistency with the MSA and other applicable law. In addition, the proposed rule described the recent disapproval of similar measures in the New England Fishery Management Council's Amendment 5 to the Atlantic Herring FMP. After review of public comments, NMFS determined these three measures had to be disapproved because they are inconsistent with the MSA and other applicable law. In the November 7, 2013, partial approval letter sent to the Council, NMFS detailed recommendations on how these measures could be revised in a future action to address NMFS's concerns. If the Council chooses to revise these measures and submit them in a future action, NMFS will continue to work with the Council to design effective measures to help improve management of the MSB fisheries. Whether those future actions would be amendments or framework adjustments would depend on the scope of the revised measures.

Amendment 14 includes measures to address the catch of river herring and shad in the mackerel fishery. River herring (alewife and blueback herring) and shad (American shad and hickory shad) are anadromous species that co-occur seasonally with mackerel and are

harvested as incidental catch in the mackerel fishery. For the purposes of this rulemaking, the term "river herring and shad" refers to all four species. When river herring and shad are encountered in the mackerel fishery, they are either discarded at sea (bycatch) or retained and sold as part of the mackerel catch (incidental catch). For the purposes of this rulemaking, the terms bycatch and incidental catch are used interchangeably.

Approved Measures

As noted in the proposed rule, some of the regulations implemented through Amendment 14 overlap with the regulations implemented through Amendment 5 to the Atlantic Herring FMP, which will publish as a final rule shortly. Several sections of regulatory text are affected by both actions. Since the Amendment 5 regulatory text is now finalized, the regulatory text presented in this final rule references the updated regulations. Therefore, it differs slightly in structure, but not content, from the regulations presented in the proposed rule.

This final rule implements approved management measures that:

- Institute weekly vessel trip reports (VTRs) for all MSB permits to facilitate quota monitoring and cross-checking with other data sources;
- Require 48-hr pre-trip notification to retain more than 20,000 lb (9.07 mt) of mackerel so NMFS has sufficient notice to assign observers to fishing vessels;
- Require VMS and daily catch reporting via VMS for limited access mackerel vessels to facilitate monitoring and cross-checking with other data sources;
- Require VMS and daily catch reporting via VMS for longfin squid/butterfish moratorium vessels to facilitate monitoring and cross-checking with other data sources;
- Require 6-hr pre-landing notification via VMS to land over 20,000 lb (9.07 mt) of mackerel to allow sufficient notice to facilitate at-sea monitoring, enforcement, and portside monitoring;
- Expand vessel requirements related to at-sea observer sampling to help ensure safe sampling and improve data quality;
- Prohibit slippage on limited access mackerel and longfin squid trips, with exceptions for safety concerns, mechanical failure, and when spiny dogfish prevents catch from being pumped aboard the vessel, and require a released catch affidavit (statement by the vessel operator) to be completed for each slippage event;
- Evaluate the existing river herring bycatch avoidance program to investigate providing real-time, cost-effective information on river herring distribution and fishery encounters;
- Implement a mortality cap for river herring and shad in the mackerel fishery; and
- Establish a mechanism within the fishery management plan whereby a river herring and shad catch cap can be developed through future framework actions.

1. Adjustments to the Fishery Management Program

Amendment 14 revises several existing fishery management provisions, including VTR requirements, and VMS requirements and reporting.

VTR Frequency Requirements

Currently MSB permit holders are required to submit fishing vessel logs, known as VTRs, on a monthly basis. Amendment 14 implements a weekly VTR submission requirement for all MSB permits and requires that VTRs be postmarked or received by midnight of the first Tuesday following the end of the reporting week. If an MSB permit holder did not make a trip during a given reporting week, a vessel representative is required to submit a report to NMFS stating so by midnight of the first Tuesday following the end of the reporting week. Any fishing activity during a particular reporting week (i.e., starting a trip, landing, or offloading catch) constitutes fishing during that reporting week and eliminates the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel began a fishing trip on Wednesday, but returned to port and offloaded its catch on the following Thursday (i.e., after a trip lasting 8 days), the VTR for the fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (i.e., a "did not fish" report) would not be required for either earlier week. This weekly VTR reporting requirement brings MSB reporting requirements in line with other Northeast region fisheries, improves monitoring of directed and incidental catch, and facilitates cross-checking with other data sources.

VMS Requirement, Daily Catch Reports and Pre-Landing Notifications

Amendment 14 implements VMS requirements for vessels with limited access mackerel permits and longfin squid/butterfish moratorium permits to improve monitoring of directed and incidental catch. Currently, vessels with these permits are not required to have VMS, to submit activity declarations, to submit catch reports, or to submit pre-landing notifications, although many vessels already possess VMS units due to requirements for other fisheries for which they hold permits.

Amendment 14 requires limited access mackerel and longfin squid/butterfish moratorium permit holders to purchase and maintain a VMS unit. Reimbursement for VMS units is available on a first come, first serve, basis until the funds are depleted. More information on the VMS reimbursement program is available from the Pacific States Marine Fisheries Commission (see **ADDRESSES**) and from the NMFS VMS Support Center, which can be reached at 888–219–9228. Information about approved VMS vendors will be provided in the small entity compliance guide for this final rule, which will be mailed to all permit holders and available online at *http://www.nero.noaa.gov.*

Vessels are required to declare into the fishery via VMS for trips targeting mackerel or longfin squid, and are required to transmit location information at least every hour, 24 hr a day, throughout the year (see existing operating requirements at § 648.10(c)(1)(i)). Vessel owners may request a letter of exemption from the NMFS Regional Administrator for permission to power down their VMS units if the vessel is continuously out of the water for more than 72 consecutive hours (see existing power-down exemption regulations at § 648.10(c)(2)). Vessels that do not already have VMS units installed have to confirm that their VMS units are operational by notifying the NMFS Office of Law Enforcement (OLE) (see existing installation notification procedures at § 648.10(e)(1)).

Amendment 14 requires daily VMS catch reporting for all limited access mackerel permits and longfin squid/butterfish moratorium permits when fishing on a declared mackerel or longfin squid trip. Daily VMS catch reports need to include: The VTR serial number for the current trip; month, day, and year the mackerel and/or longfin squid were caught; and total pounds retained. Daily mackerel and/or longfin squid VMS catch reports need to be submitted for each calendar day of the trip (midnight to midnight) and must to be submitted by 0900 hr of the following day. Reports are required even if mackerel and/or longfin squid caught that day has not yet been landed.

Amendment 14 also requires that vessels landing more than 20,000 lb (9.07 mt) of mackerel submit a pre-landing notification via VMS. Vessels

must notify NMFS Office of Law Enforcement of the time and place of offloading at least 6 hr prior to arrival or, if fishing ends less than 6 hr before arrival, immediately upon leaving the fishing grounds.

2. Adjustments to At-Sea Catch Monitoring

One of the primary goals of Amendment 14 is to improve catch monitoring in the mackerel and longfin squid fisheries, with a focus on better evaluation of the incidental catch of river herring and shad. Amendment 14 codifies a number of requirements to facilitate at-sea catch monitoring, including adding a pre-trip notification for mackerel, observer assistance requirements, and proper notice of pumping and/or net haulback for observers in the mackerel and longfin squid fisheries. Amendment 14 also includes a measure to minimize the discarding of catch before it has been sampled by an observer.

Pre-Trip Notification in the Mackerel Fishery

Amendment 14 requires a 48-hr pre-trip notification for all vessels intending to retain, possess or transfer 20,000 lb (9.07 mt) or more of Atlantic mackerel, in order to facilitate observer placement. Currently mackerel vessels have no pre-trip notification requirements. This measure assists the NMFS Northeast Fisheries Observer Program (NEFOP) scheduling and deployment of observers on directed mackerel trips, with minimal additional burden on the industry, helping ensure that the observer coverage target for the mackerel fishery is met. The list of information that must be provided to NEFOP as part of this pre-trip observer notification is described in the regulations at § 648.11(n)(1). Details of how vessels should contact NEFOP will be provided in the small entity compliance guide for this final rule, which will be mailed to all permit holders and available online at *http://www.nero.noaa.gov*. If a vessel operator is required to notify NEFOP to request an observer before embarking on a fishing trip, but does not notify NEFOP before beginning the fishing trip, that vessel would be prohibited from possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of mackerel on that trip. If a fishing trip is cancelled, a vessel representative must notify NEFOP of the cancelled trip, even if the vessel is not selected to carry observers. All waivers or selection notices for observer coverage will be issued by NEFOP to the vessel via VMS, so the vessel would have an on-board verification of either the observer selection or waiver.

Observer Assistance Requirements

Northeast fisheries regulations (found at 50 CFR part 648) specify requirements for vessels carrying NMFS-approved observers, such as providing observers with food and accommodations equivalent to those available to the crew; allowing observers to access the vessel's bridge, decks, and spaces used to process fish; and allowing observers access to vessel communication and navigations systems. Amendment 14 expands these requirements, such that vessels issued limited access mackerel and longfin squid/butterfish moratorium permits and carrying NMFS-approved observers must provide observers with the following: (1) A safe sampling station adjacent to the fish deck, and a safe method to obtain and store samples; (2) reasonable assistance to allow observers to complete their duties; (3) advance notice of when pumping or net haulback will start and end and when sampling of the catch may begin; and (4) visual access to net/codend or purse seine and any of its contents after pumping has ended, including bringing the codend and its contents aboard if possible. These measures are anticipated to help improve at-sea catch monitoring in the mackerel and longfin squid/butterfish fisheries by enhancing the observer's ability to collect quality data in a safe and efficient manner. Many vessels already provide this assistance voluntarily.

Measures To Prevent Catch Discards Before Observer Sampling

Amendment 14 requires limited access mackerel and longfin squid moratorium vessels to bring all catch aboard the vessel and make it available for sampling by an observer. The Council recommended this measure to improve the quality of at-sea monitoring data by reducing the discarding of unsampled catch. If catch is discarded before it has been made available to the observer, that catch is defined as slippage. Fish that cannot be pumped and that remain in the net at the end of pumping operations are considered operational discards and not slippage. Some stakeholders believe that slippage is a serious problem in the mackerel and longfin squid fisheries because releasing catch before an observer can estimate its species composition undermines accurate catch accounting.

Amendment 14 allows catch to be slipped if: (1) Bringing catch aboard compromises the safety of the vessel or crew; (2) mechanical failure prevents the catch from being brought aboard; or (3) spiny dogfish prevents the catch from being pumped aboard. If catch is slipped, even for the exempted reasons, the vessel operator is required to complete a released catch affidavit within 48 hr of the end of the fishing trip. The released catch affidavit would detail: (1) Why catch was slipped; (2) an estimate of the quantity and species composition of the slipped catch and any catch brought aboard during the haul; and (3) the time and location of the slipped catch.

In 2010, the NMFS NEFOP revised the training curriculum for observers deployed on herring and mackerel vessels to focus on effectively sampling in high-volume fisheries. NEFOP also developed a discard log to collect detailed information on discards in the herring fishery, including slippage, such as why catch was discarded, the estimated amount of discarded catch, and the estimated composition of discarded catch. Recent slippage data collected by observers indicate that: Information about these events, and the amount and composition of fish that are slipped, has improved; and the number of slippage events by limited access herring vessels has declined. Given NEFOP's recent training changes and its addition of a discard log, NMFS believes that observer data on slipped catch, rather than released catch affidavits, provide the best information to account for discards. However, there is still a compliance benefit to requiring a released catch affidavit because it would provide information regarding the operator's decisions and may help NMFS to understand why slippage occurs.

NMFS expects that prohibiting slippage will help reduce slippage events in the mackerel and longfin squid fisheries, thus improving the quality of observer catch data, especially data on bycatch species encountered in the mackerel and longfin squid fisheries. Additionally, NMFS expects that the slippage prohibition will help minimize bycatch, and bycatch mortality, to the extent practicable in the mackerel and longfin squid fisheries.

Lastly, Amendment 14 allows for a number of measures related to at-sea sampling to be modified through the specifications process, including: (1) Observer provisions to maximize sampling; and (2) exceptions for the requirement to pump/haul aboard all fish from net for inspection by at-sea observers.

3. Measures To Address River Herring and Shad Interactions

Amendment 14 establishes several measures to address the catch of river herring and shad in the mackerel fishery to minimize bycatch and bycatch mortality to the extent practicable. River herring (the collective term for alewife and blueback herring) are anadromous species that may co-occur seasonally with Atlantic herring and Atlantic mackerel and are harvested as a non-target species in the Atlantic herring and Atlantic mackerel fisheries.

River herring are managed by the Atlantic States Marine Fisheries Commission (ASMFC) and individual states. According to the most recent ASMFC river herring stock assessment (May 2012), river herring populations have declined from historic levels and many factors will need to be addressed to allow their recovery, including fishing (in both state and Federal waters), river passageways, water quality, predation, and climate change. In an effort to aid in the recovery of depleted or declining stocks, the ASMFC, in cooperation with individual states, prohibited state water commercial and recreational fisheries that did not have approved sustainable fisheries management plans, effective January 1, 2012. NMFS considers river herring to be a species of concern, but recently (78 FR 48944, August 12, 2013) determined that listing river herring as either threatened or endangered under the Endangered Species Act is not warranted at this time. Following this determination, NMFS established a technical working group and continues to work closely with the ASMFC and others to develop a long-term, dynamic conservation plan for river herring from Canada to Florida. The working group will evaluate the impact of ongoing restoration and conservation efforts, as well as new fisheries management measures, which should benefit the species. It will also review new information produced from ongoing research, including genetic analyses, ocean migration pattern research, and climate change impact studies, to assess whether recent reports showing higher river herring counts in the last 2 yr represent sustained trends. NMFS intends to revisit its river herring status determination within the next 5 yr.

This action establishes a mortality cap on river herring and shad in the mackerel fishery, where the mackerel fishery would close once it has been determined to cause a certain amount of river herring and/or shad mortality. Based on the results of the ASMFC's assessments for river herring and shad, data do not appear to be robust enough to determine a biologically based catch cap for these species, and/or the potential effects on these populations if a catch cap is implemented on a coast-wide scale. Nevertheless, the Council believes that capping the allowed level of river herring and shad catch in the mackerel fishery should provide a strong incentive for the industry to avoid river herring and shad, and will help to minimize encounters with these species.

While Amendment 14, as approved, includes the measure to allow caps and the general methodology for applying the caps, the MSB specifications process for the 2014 fishing year will establish the actual cap amount and other logistical details of the cap (e.g., the closure threshold and post-closure possession limit). The process for 2014 MSB specifications began in May 2013 with a MSB Monitoring Committee meeting to develop technical recommendations on the cap level and any necessary management measures. At its June 2013 meeting, the Council selected a combined catch cap for river herring and shad of 236 mt, a trip limit threshold of 95 percent, and a post-threshold incidental trip limit of 20,000 lb (9.07 mt). The Council finalized its analysis of these measures and submitted its final recommendation to NMFS as part of the 2014 MSB specifications package. The proposed rule for 2014 MSB specifications, which NMFS intends to publish early in 2014, will provide the opportunity for interested parties to comment on the actual proposed cap level and management measures related to the cap. NMFS intends to implement the river herring and shad cap, if approved, in the spring of 2014.

The New England Fishery Management Council is also considering establishing a catch cap for river herring and shad in the Atlantic herring fishery in Framework 3 to the Atlantic Herring FMP. Due to the mixed nature of the herring and mackerel fisheries, especially during January through April, the potential for the greatest river herring catch reduction would come from the implementation of a joint river herring catch and shad cap for both the fisheries. At its September 2013 meeting, the New England Council took final action on Framework 3 and recommended establishing river herring and shad catch caps for midwater and bottom trawl gear in the herring fishery. Framework 3, if approved, is expected to be implemented in the spring or summer of 2014. Based on the ASMFC's recent river herring assessment, data do not appear to be robust enough to determine a biologically-based river herring catch cap and/or the potential effects on river herring populations of such a catch cap on a coast-wide scale. Still, similar to the Mid-Atlantic Council, the New England Council intends to establish the ability to consider a river herring catch cap and approaches for setting a river herring catch cap in the Atlantic herring fishery as soon as possible.

Amendment 14 establishes a mechanism to develop, evaluate, and consider regulatory requirements for a river herring bycatch avoidance strategy in small-mesh pelagic fisheries. A river herring bycatch avoidance strategy will be developed and evaluated by the Council, in cooperation with participants in the mackerel fishery, specifically the Sustainable Fisheries Coalition (SFC), the Massachusetts Division of Marine Fisheries (MADMF), and the University of Massachusetts Dartmouth School of Marine Science and Technology (SMAST). This measure is based on the existing river herring bycatch avoidance program involving SFC, MADMF, and SMAST, which is voluntary and seeks to reduce river herring and shad bycatch by working within current fisheries management programs, without the need for additional regulatory requirements. The river herring bycatch avoidance program includes portside sampling, real-time communication with the SFC on river herring distribution and encounters in the herring fishery, and data collection to evaluate if oceanographic features may predict high rates of river herring encounters.

Amendment 14 requires that, within 6 months of completion of the existing SFC/MA DMF/SMAST river herring bycatch avoidance project, the Council will review and evaluate the results from the river herring bycatch avoidance project, and consider a framework adjustment to the MSB FMP to establish river herring bycatch avoidance measures. Measures that may be considered as part of the framework adjustment include: (1) Mechanisms to track herring fleet activity, report bycatch events, and notify the herring fleet of encounters with river herring; (2) the utility of test tows to determine the extent of river herring bycatch in a particular area; (3) the threshold for river herring bycatch that would trigger the need for vessels to be alerted and move out of a given area; and (4) the distance and/or time that vessels would be required to move from an area.

The Council considered other measures to address river herring and shad bycatch in Amendment 14, including closed areas. Because the

seasonal and inter-annual distribution of river herring and shad is highly variable in time and space, the Council determined that the most effective measures in Amendment 14 to address river herring and shad bycatch would be those that increase monitoring, bycatch accounting, and promote cooperative efforts with the industry to minimize bycatch to the extent practicable. In order to streamline the regulatory process necessary to adjust the river herring and shad mortality caps, or enact time area management for river herring and shad, if scientific information to support such management measures becomes available, this action adds river herring and shad catch caps and time/area closures to the list of measures that can be addressed via framework adjustment.

4. Adding Individual River Herring and Shad Species as Stocks in the MSB Fishery

Though there are currently no measures in Amendment 14 related to this issue, the Council initially considered alternatives in the Amendment 14 draft EIS to include the four river herring and shad species as stocks in the MSB FMP. Instead, the Council initiated a separate amendment, Amendment 15 to the MSB FMP, to explore the need for conservation and management of these species more thoroughly, and analyze all of the MSA provisions (i.e., management reference points, description and delineation of essential fish habitat, etc.). Scoping for MSB Amendment 15 began in October 2012 (77 FR 65867). Based on NMFS guidance, the Council completed a document that examined a range of issues related to Federal management for river herring and shad. The document presented legal requirements for managing species under the MSA, the existing management and protection of river herring and shad, and the potential benefits of managing them under the MSA in contrast to the other authorities already providing protection. After reviewing the document, the Council determined at its October 2013 meeting that it should not go forward with the development of Amendment 15 at this time. The Council's decision was based on a range of considerations related to ongoing river herring and shad conservation and management efforts, including conservation efforts for river herring and shad at the local, state and Federal level, the pending incidental catch caps for river herring and shad in the Atlantic mackerel and Atlantic herring fisheries, the recent determination by NMFS that river herring are not endangered or threatened, and the NMFS commitment to expand engagement in river herring conservation following the ESA determination. The Council also decided to re-evaluate Federal management of river herring and shad in 3 yr after a number of other actions related to river herring and shad conservation have been implemented.

Disapproved Measures

The following sections detail why NMFS's disapproved three measures that were proposed as part of Amendment 14. NMFS disapproved these three measures because it found the measures to be inconsistent with the MSA and other applicable law. The proposed rule for Amendment 14 described NMFS's concerns with these measures' consistency with the MSA and other applicable law. After review of public comments, NMFS, on behalf of the Secretary, disapproved these measures; therefore, this final rule does not include regulations for these measures.

1. Increased Observer Coverage Requirements

Currently, the NMFS Northeast Fisheries Science Center (NEFSC) determines observer coverage levels in the mackerel fishery based on the standardized bycatch reporting methodology (SBRM) and after consultations with the Council. Observer coverage in the mackerel fishery is currently fully funded by NMFS. In Amendment 14, the Council recommended increases in the observer coverage in the mackerel fishery, specifically 100-percent observer coverage on all limited access mackerel vessels using midwater trawl (i.e., Tiers 1, 2 and 3) and Tier 1 mackerel vessels using small-mesh bottom trawl, 50-percent coverage on Tier 2 mackerel vessels using small-mesh bottom trawl, and 25-percent on Tier 3 mackerel vessels using small-mesh bottom trawl. Many stakeholders believe this measure is necessary to accurately determine the extent of bycatch and incidental catch in the mackerel fishery. The Council recommended this measure to gather more information on the mackerel fishery so that it may better evaluate and, if necessary, implement additional measures to address catch and discards of river herring and shad. The increased observer coverage level recommendations were coupled with a target maximum industry contribution of $325 per day. There are two types of costs associated with observer coverage: Observer monitoring costs, such as observer salary and travel costs; and NMFS support and infrastructure costs, such as observer training, data processing, and infrastructure. The monitoring costs associated with an observer in the mackerel fishery are higher than $325 per day. Upon legal analysis of this measure, the cost-sharing of monitoring costs between NMFS and the industry would violate the Antideficiency Act. Therefore, based on this analysis, there is no current legal mechanism to allow cost-sharing of monitoring costs between NMFS and the industry.

Throughout the development of Amendment 14, NMFS advised the Council that Amendment 14 must identify a funding source for increased observer coverage because NMFS's annual appropriations for observer coverage are not guaranteed. Some commenters asserted that the $325 per day industry contribution was not a limit, but a target, and that the Council intended the industry to pay whatever is necessary to ensure 100-percent observer coverage. NMFS disagrees, and does not believe the amendment specifies that the industry would pay all the monitoring costs associated with 100-percent observer coverage, nor does the amendment analyze the economic impacts of the industry paying all the monitoring costs. The FEIS for Amendment 14 analyzes the industry paying $325 per day, and the DEIS analyzes the cost of vessels paying $800 per day (estimated sum of observer monitoring costs), but it does not analyze a range of that would approximate total monitoring costs. Budget uncertainties prevent NMFS from being able to commit to paying for increased observer coverage in the mackerel fishery. Requiring NMFS to pay for 100-percent observer coverage would amount to an unfunded mandate. Because Amendment 14 does not identify a funding source to cover the costs of increased observer coverage, the measure is not sufficiently developed to approve at this time. Therefore, NMFS had to disapprove the 100-percent observer coverage requirement. With the disapproval of this measure, this action maintains the existing observer coverage levels and full Federal funding for observer coverage the mackerel fishery.

In 2013, a working group was formed to identify a workable, legal mechanism to allow for industry-funded observer coverage in the herring fishery, including staff from the New England and Mid-Atlantic Councils and NMFS. To further explore the legal issues surrounding industry-funded observer coverage, NMFS formed a working group of Greater Atlantic Regional Fisheries Office, NEFSC, General Counsel, and Headquarters staff. The

NMFS working group is currently exploring possibilities.

In the November 7, 2013, partial approval letter to the Council, NMFS offered to be the technical lead on an omnibus amendment to establish an administrative mechanism to allow for industry-funded observer coverage in New England and Mid-Atlantic FMPs. At its October 2013 meeting, the Council considered NMFS's offer and encouraged NMFS to begin development of the omnibus amendment. NMFS expects to present a preliminary range of alternatives for the omnibus amendment to the New England and Mid-Atlantic Councils in early 2014.

Additionally, other measures implemented in this action help improve monitoring in the mackerel fishery. These measures include the requirement for vessels to contact NMFS at least 48 hr in advance of a fishing trip to facilitate the placement of observers, observer sample station and reasonable assistance requirements to improve an observer's ability collect quality data in a safe and efficient manner, and the slippage prohibition and the sampling requirements for midwater trawl vessels fishing in groundfish closed areas to minimize the discarding of unsampled catch.

The same measure that would have required increased observer coverage, coupled with a $325 contribution by the industry, would have also required that: (1) The Council would re-evaluate the increased observer coverage level 2 yr after implementation; and (2) observer service provider requirements for the Atlantic sea scallop fishery would apply to observer service providers for the mackerel fishery. NMFS believes these additional measures are inseparable from the 100-percent observer coverage requirement; therefore, NMFS also disapproved these measures. With the disapproval of these measures, this action maintains the existing SBRM-based observer coverage provisions for the mackerel fishery.

2. Measures To Minimize Slippage

Amendment 14 proposed establishing a slippage cap for the mackerel fishery. Under the proposed measures, once there have been 10 slippage events fleet-wide in the mackerel fishery by vessels carrying an observer, vessels that subsequently slip catch would have been required to immediately return to port. NMFS would have been required to track slippage events and notify the fleet once the slippage cap had been reached. Slippage events due to conditions that may compromise the safety of the vessel or crew, mechanical failure, or dogfish in the pump would not count against the slippage cap. The Council recommended these slippage caps to discourage the inappropriate use of the slippage exceptions, and to allow for some slippage, but not unduly penalize the fleet.

Throughout the development of Amendment 14, NMFS identified potential concerns with the rationale supporting, and legality of, the slippage caps. The need for, and threshold for triggering, a slippage cap (10 slippage events) does not appear to have a strong biological or operational basis. Under the proposed measure, once a slippage cap had been met, vessels that slip catch with an observer aboard for reasons other than safety, mechanical failure, or spiny dogfish in the pump would have been required to return to port. Vessels could have continued fishing following slippage events 1 thorough 10, but would have been required to port following the 11th slippage event, regardless of the vessel's role in the first 10 slippage events. Conversely, vessels responsible for slippage events 1 through 10, could continue fishing after the 11th slippage event, provided they do not slip catch again. NMFS believes this aspect of the proposed measure is inequitable.

From 2006–2010, approximately 26 percent (73 of 277 or 15 per year) of hauls on observed mackerel trips (trips that caught 50 percent or more mackerel or at least 100,000 lb (45.34 mt) of mackerel) had some unobserved catch. Hauls may be unobserved for a variety of reasons—e.g., transfer of catch to another vessel without an observer, observers not being on deck to sample a given haul, or hauls released from the net while still in the water. The estimate of 15 unobserved hauls per year would thus be an upper bound on slippage events. The Council's analysis noted that while documented slippage events are relatively infrequent, increases above the estimated 15 unobserved hauls per year could compromise observer data because large quantities of fish can be caught in a single tow. However, the Council's analysis did not provide sufficient rationale for why it is biologically or operationally acceptable to allow the fleet 10 un-exempted slippage events prior to triggering the trip termination requirement, as opposed to any other number.

The proposed Amendment 14 measures to minimize slippage were based on the sampling requirements for midwater trawl vessels fishing in Groundfish Closed Area I. However, there are important differences between these measures. Under the Closed Area I requirements, midwater trawl vessels are allowed to continue fishing if they slip catch, but they must leave Closed Area I for the remainder of that trip. The requirement to leave Closed Area I is less punitive than the proposed requirement in Amendment 14 to return to port when slippage occurs. Additionally, because the consequences of slipping catch apply uniformly to all vessels under the Closed Area I requirements, inequitable application to the fleet is not an issue for the Closed Area I requirements, like NMFS believes it is for the proposed Amendment 14 slippage caps.

If the Council wants to revise the slippage cap, the revisions would need to address the biological/administrative justification for the cap's trigger and equity within the fleet. The slippage cap could be revised to be more similar to the sampling requirements in Groundfish Closed Area I, such that all vessels that slip catch have a consequence. This revision would alleviate NMFS's concern with the equitable application of the slippage cap among those who contribute to reaching the cap, as well as its concern with the basis for triggering the cap. The consequence of slipped catch could be a requirement to return to port, or to leave a defined area, such as a statistical area, where the slippage event occurred.

Even through the slippage cap was disapproved, the prohibition on slippage, the released catch affidavit, and the ongoing data collection by NEFOP still allow for improved monitoring in the mackerel fishery, increased information regarding discards, and an incentive to minimize the discarding of unsampled catch.

3. Reporting Requirements for Dealers

During the development of Amendment 14, some stakeholders expressed concern that MSB catch is not accounted for accurately and that there needs to be a standardized method to determine catch. In an effort to address that concern, Amendment 14 proposed requiring MSB dealers to accurately weigh all fish or use volume-to-weight conversions for all transactions with over 2,500 lb (1.13 mt) of longfin squid or 20,000 lb (9.07 mt) of mackerel. If catch is not sorted by species, dealers would be required to document for each transaction how they estimate relative species composition. During the development of Amendment 14, NMFS identified concerns with the utility of this measure.

Dealers are currently required to accurately report the weight of fish, which is obtained by scale weights and/or volumetric estimates. Because the proposed measure did not specify how

fish would be weighed and would still have allowed volumetric estimates, the proposed measure might not change dealer behavior and, therefore, might not lead to any measureable change in the accuracy of catch weights reported by dealers. Further, this proposed measure did not provide standards for estimating species composition. Without standards for estimating species composition or for measuring the accuracy of the estimation method, NMFS would likely be unable to evaluate the sufficiency of the methods used to estimate species composition. For these reasons, the requirement for dealers to document the methods used to estimate species composition might not have improved the accuracy of dealer reporting.

While the measure requiring dealers to document methods used to estimate species composition may not have direct utility in monitoring catch in the MSB fisheries, it might still inform NMFS's and the Council's understanding of the methods used by dealers to determine species weights. That information might aid in development of standardized methods for purposes of future rulemaking. Furthermore, full and accurate reporting is a permit requirement; failure to fully and accurately report could render dealer permit renewals incomplete, precluding renewal of the dealer's permit. Therefore, there is incentive for dealers to make reasonable efforts to document how they estimate relative species composition, which might increase the likelihood that useful information would be obtained as a result of this requirement.

In light of the foregoing, NMFS evaluated whether the proposed measure had practical utility, as required by the MSA and the Paperwork Reduction Act (PRA), that would have outweighed the additional reporting and administrative burden on the dealers. In particular, NMFS considered whether and how the proposed measure would help prevent overfishing, promote the long-term health and stability of the MSB resource, monitor the fishery, facilitate inseason management, or judge performance of the management regime.

NMFS determined that this measure would not measurably improve the accuracy of dealer reporting or the management of the MSB resources. NMFS also determined that this measure does not comply with National Standard 7's requirement to minimize costs and avoid unnecessary duplication to the extent practicable, and the PRA's requirement for the utility of the measure to outweigh the additional reporting and administrative burden on the dealers. Therefore, NMFS disapproved the proposed dealer reporting requirements, and this action maintains the existing requirement that dealers accurately report the weight of fish.

If the Council wants to revise dealer reporting requirements in a future action, the revisions would need to address issues concerning accuracy and utility of the information reported and could be addressed in several ways. For example, the Council could select Alternative 2b in Amendment 14 (requiring vessel owners to review and validate data for their vessels in Fish-on-Line). This measure would be a change from status quo, and it has some utility as it helps identify, and possibly reduce, discrepancies between dealer and vessel reports. Another way for the Council to revise the dealer reporting requirement would be to clarify and standardize the methods used to "accurately weigh all fish" by requiring the use of scales or standardized volume measurement. If the methods to "accurately weigh all fish" were specified, it would likely change dealer behavior from status quo, and may, depending on the methods, improve the accuracy of dealer reports.

Alternatively, the Council could take this opportunity to revisit the original concern that sparked the development of the dealer reporting requirement, which was the fact that landing data were not verified by a third-party, and revise the measure to better address that concern. Lastly, the sub-option requiring dealers to document how they estimate the composition of catch was intended to gather information on methods used by dealers to estimate species composition. Another way to obtain that type of information would be to gather it as part of a data collection program that would update community profiles for Northeast fisheries.

Comments and Responses

NMFS received 15 comment letters during the comment period for the NOA and proposed rule. Three of the letters were from the general public, and 12 were from environmental advocacy groups. Five of the letters from environmental advocacy groups were form letters that contained signatures and personalized comments, including: 47 total signatures and one personalized comment on a letter from the Natural Resources Defense Council; 1,810 signatures on a letter from the Chesapeake Bay Foundation; 32,219 total signatures with 2,694 personalized comments on a letter from the Pew Charitable Trusts; 1,147 signatures and 279 personalized comments on a letter from the Ocean River Institute; and 4,716 total signatures with 230 personalized comments on a letter from the National Audubon Society. Only comments relevant to measures considered in Amendment 14 are summarized and addressed below. Comments related to other fishery management actions or general fishery management practices are not addressed here.

1. General Comments

Comment 1: Many commenters urged NMFS to approve Amendment 14 in its entirety, but provided no specific comments on the proposed measures. Additional comments acknowledged that the amendment contains many important components, but commenters believe the river herring and shad catch cap, the slippage cap, 100-percent observer coverage on mid-water trawl vessels, and accurate dealer weighing of catch are especially important for reducing bycatch of river herring and shad in the mackerel fishery.

Response: NMFS supports improvements to fishery-dependent data collections by expanding, to the extent practicable, at-sea monitoring of the mackerel fishery and reducing bycatch and unnecessary discarding. However, NMFS determined that the increased observer coverage requirements, slippage caps, and dealer reporting alternatives proposed in Amendment 14 were inconsistent with the MSA and other applicable law. Regardless of NMFS's desire to increase monitoring and reduce bycatch in the mackerel fishery, it cannot approve and implement measures it believes are inconsistent with applicable law. Amendment 14 has many tools to improve management of the mackerel fishery (i.e., expanded vessel reporting requirements) and to monitor and mitigate river herring and shad bycatch (i.e., the slippage prohibition and river herring and shad catch caps).

Comment 2: Wild Oceans commented that the proposed rule incorrectly states that one of the goals of Amendment 14 is to "improve catch monitoring in the mackerel and longfin squid fisheries." They point out that the Amendment 14 FEIS specifically ties the monitoring improvements for these fisheries to improving the precision of river herring and shad catch estimates, and that the proposed alternatives must be evaluated in this context to determine their utility.

Response: NMFS agrees that the goal was not fully stated in some places in the proposed rule. We have clarified the statement of the goal in this final rule. The full statement of the goal was not overlooked in our evaluation of the

Council's proposed alternatives. Again, while we are supportive of improvements to data collection to strengthen our understanding of river herring and shad bycatch in the MSB fisheries, we had to disapprove the slippage caps, increased observer coverage requirements, and dealer reporting requirement because of the inconsistency of these measures with the MSA and other applicable laws.

Comment 3: NMFS referenced the Herring Amendment 5 partial approval in the Amendment 14 proposed rule, and linked concerns with the disapproved measures to several measures in the Amendment 14 proposed rule. Several commenters expressed their disagreement with NMFS's approvability concerns, and believe that NMFS fails to recognize the substantial need for these measures, their central role in the overall Amendment 14 reform package, and their strong justification in the FEIS for Amendment 14. A number of other commenters raised similar sentiments, focusing on their belief that the proposed measures strike a carefully designed balance between conservation and industry needs, are consistent with the MSA and other applicable law, and should be approved in full. Some commenters went on to say that, if NMFS disapproves the measures in Amendment 14, it must provide specific and timely recommendations for "fixing" the disapproved measures, consistent with the process for resubmittal of disapproved measures outlined in the MSA.

Response: NMFS expressed concerns about the proposed increased observer coverage requirements, the slippage caps, and the dealer reporting requirements throughout the development of this amendment. While these measures have strong support from many stakeholders, they were not modified in a manner to alleviate NMFS's concerns. The proposed rule for Amendment 14 described potential concerns about these measures' consistency with the MSA and other applicable law. No new or additional information was identified by commenters during the public comment period on the NOA and proposed rule for Amendment 14 to address NMFS's concerns with the identified deficiencies of these measures. Therefore, on November 7, 2013, NMFS determined these three measures must be disapproved.

NMFS provided suggestions for alleviating our approvability concerns in both our November 7, 2013, partial approval letter to the Council, and in the preamble to the proposed rule, in the discussion of the since-disapproved measures. If the Council chooses to revise these measures, NMFS will continue to work with the Council to design effective measures that help improve management of the mackerel fishery. Revised measures could be addressed in upcoming Council actions. Whether such actions would be amendments or frameworks will depend on the scope of the revised measures.

The measures in Amendment 14 that were approved by NMFS are consistent with the MSA and other applicable law, and analysis in the FEIS indicates these measures will improve data quality, as well as bycatch avoidance and minimization.

Comment 4: The Herring Alliance and NRDC expressed their view that they support the majority of Amendment 14, but that Amendment 14 should be disapproved to the extent that it fails to include river herring and shad in a Federal FMP. They note that a Federal FMP would enable NMFS to set science-based annual catch limits, identify and protect essential fish habitat, gather better data and improve the population estimates of river herring and shad, and coordinate with state efforts to restore river herring and shad. Several other commenters also expressed their support for including river herring and shad in a Federal FMP as part of Amendment 15 to the MSB FMP.

Response: It is not clear what the commenters meant by disapproving Amendment 14 "to the extent that it fails to include river herring and shad in a Federal FMP." Amendment 14 is not required to consider all aspects of management of the MSB fisheries; instead the amendment is focused on considering measures to better evaluate the incidental catch of river herring and shad, and to address river herring and shad bycatch issues in the mackerel fishery. As noted in this preamble, because of the complexity of the issue of Federal management of river herring and shad, the Council voted in June 2012 to move consideration of this issue out of Amendment 14 and into Amendment 15. Thus, considering whether river herring and shad should be stocks in the MSB FMP outside the scope of Amendment 14. If the comment meant that Amendment 14 should be disapproved in its entirety because it does not add river herring and shad to a Federal FMP, then important river herring and shad protection measures implemented through this action, including the increased reporting requirements for mackerel and longfin squid vessels, the slippage prohibitions, and the river herring and shad catch cap, would also be disapproved. NMFS determined these measures are administratively feasible and offer conservation benefits to river herring and shad, and approved them for implementation.

2. Comments on Adjustments to the Fishery Management Program

Comment 5: While most commenters expressed their overall support for measures proposed in Amendment 14, Wild Oceans and PEW Charitable Trusts specifically supported the adjustments to vessel reporting requirements, including: Weekly VTR for all MSB permits; the 48-hr pre-trip notification for mackerel; VMS requirements for mackerel and longfin squid; and the 6-hr pre-landing notification for mackerel.

Response: NMFS concurs with the commenters, because NMFS believes these measures will help improve monitoring, improve overall management of the MSB fisheries, and are consistent with the MSA and other applicable law. NMFS approved these measures and this action implements them.

Comment 6: Wild Oceans expressed disappointment that, given the mixed nature of the herring and mackerel fisheries in Quarter 1, a recommendation raised at a joint meeting of the technical teams for Amendments 5 and 14 to create a "mixed trip" or "pelagic" VMS declaration for these fisheries was not included in the proposed rule. They expressed concern that ambiguity in the VMS declaration procedures could weaken the enforcement of fishery-specific conservation measures, such as the river herring and shad catch caps.

Response: NMFS agrees with the commenter's concern, and did move forward with the recommendation to combine the declarations for the herring, mackerel, and longfin squid fisheries to ensure maximum enforceability of fishery-specific conservation measures. While regulations in this action specify that vessel operators must make appropriate trip declarations, NMFS does not include specific declaration types in regulations because regulatory requirements do not provide sufficient flexibility, should specific declaration provisions need to change. NMFS communicates specific details of the requirement, including trip declaration instructions, to industry in bulletins or small entity compliance guides. In this case, instructions on how to comply with the new combined declaration will be sent to industry in the small entity compliance guide for this rule.

Comment 7: Wild Oceans, the Herring Alliance, and PEW Environment Group

urged NMFS to approve the requirement that MSB dealers accurately weigh all fish because accurate landings data will ensure catch accountability, including catch estimates for river herring and shad, for the MSB fisheries. These comments also noted that the measure has strong support from stakeholders. The commenters disagreed with NMFS's language in the proposed rule that describe this measure as essentially status quo. They believe this measure is intended to eliminate the practice of dealers reporting visual estimates of catch weight in favor of verifiable methods such as scales or volumetric estimates of fish holds. The commenters also believe that the measure is different than the status quo because they believe it requires dealers to document their volume-to-weight estimation methodology, and to justify its use as opposed to an actual weight, which will improve the Council's understanding of the methods used by dealers to determine species and weight compositions so that appropriate standards can be developed and implemented in future rulemakings.

Response: Section 2.2 of the Amendment 14 FEIS notes that, while a majority of MSB dealers weigh their landings using scales, there are some instances, especially with mackerel, where product may be de-watered and shipped by truck before it is weighed. The FEIS goes on to say that, while in some instances the receiver may report back a weight, in other cases weights may be estimated based on the size of the shipping container or truck volume. Because the FEIS, and the Council's proposed alternative 2g, describe using a volume-to-weight conversion, possibly an estimate of a container of fish to generate the weight of any container of a similar size, NMFS believes that the amendment would have allowed for the practice of visual estimates of catch weight, rather than ending it. In Section 7.2, the final EIS concludes that dealers are unlikely to change their current operations without a requirement to do so, therefore it is unlikely that that this measure would have improved the accuracy of weights reported by dealers as compared to the status quo. The requirement would not have asked for dealers to justify why they must use a volume-to-weight estimation methodology, rather than actually weighing fish, and would simply ask for dealers to document the approach they use to determine the composition of mixed catch. Finally, as noted in this preamble, NMFS agrees that collecting information about the methods used by dealers to estimate species weight and composition could allow for the development of improved standards in future rulemakings. However, if the goal of this measure is to simply take a census of current dealer practices, it is unnecessarily punitive to tie that information collection to permit issuance. Another way to obtain that type of information would be to gather it as part of a data collection program that would update community profiles for Northeast fisheries.

3. Comments on Adjustments to At-Sea Monitoring

Comment 8: The Herring Alliance, Wild Oceans, PEW Charitable Trusts, and Oceana urged NMFS to approve critical measures in Amendment 14 designed to better monitor catch and bycatch in the mackerel fishery, including the 100-percent coverage requirement on all midwater trawl mackerel trips and Tier 1 small-mesh bottom trawl mackerel trips, 50-percent coverage on Tier 2 small-mesh bottom trawl mackerel trips, and 25-percent on Tier 2 small-mesh bottom trawl mackerel trips. They point out that the Council approved the increased observer coverage requirement with widespread support from commercial and recreational fishermen, eco-tourism and coastal businesses, river herring and coastal watershed advocates, and other members of the public. They believe that increased observer coverage is justified given the fleet's harvesting capacity and its demonstrated bycatch, and makes it possible to document rare bycatch events. Additionally, they believe the increased coverage measures are consistent with the MSA and other applicable law and necessary to improve the accuracy and precision of data used to make management decisions, and ensure that both target and non-target species are effectively administered without regulatory loopholes.

Response: Throughout the development of Amendment 14, NMFS advised the Council that Amendment 14 must identify a funding source for increased observer coverage for the types of trips referenced by the commenter because NMFS's annual appropriations for observer coverage are not guaranteed. Budget uncertainties prevent NMFS from being able to commit to paying for increased observer coverage in the herring fishery. Requiring NMFS to pay for increased observer coverage levels would amount to an unfunded mandate, meaning regulations would obligate NMFS to implement something it cannot pay for. Because Amendment 14 does not identify a funding source to cover the costs of increased observer coverage, the measure is not sufficiently developed to approve at this time. Therefore, NMFS had to disapprove the increased observer coverage requirements. With the disapproval of this measure, this action maintains the existing SBRM observer coverage levels and Federal observer funding for the mackerel fishery. Despite the disapproval of the increased observer coverage requirements, there are many other measures in the MSB FMP (e.g., annual catch limits (ACLs), accountability measures) and implemented in this action (e.g., adjustments to the fishery management program and at-sea monitoring, measures to address river herring interactions) that meet MSA requirements to minimize bycatch and ensure catch accountability.

In 2013, staff from NMFS and the New England and Mid-Atlantic Councils formed a working group to identify a workable, legal mechanism to allow for industry-funded observer coverage in the herring and mackerel fisheries. To further explore the legal issues surrounding industry-funded observer coverage, NMFS formed a separate internal working group of Greater Atlantic Regional Fisheries Office, Northeast Fisheries Science Center, General Counsel, and Headquarters staff. The NMFS working group identified an administrative mechanism to allow for industry funding of observer monitoring costs in Northeast fisheries, as well as a potential way to help offset funding costs that would be borne by the industry, subject to available funding. This administrative mechanism would be an option to fund observer coverage targets that are higher than SBRM coverage levels. The mechanism to allow for industry-funded observer coverage is a potential tool for all Northeast FMPs, but it would need to be added to each FMP to make it an available tool, should the Council want to use it. Additionally, this omnibus amendment could establish the observer coverage targets for mackerel vessels using midwater trawl and small-mesh bottom trawl.

In a September 20, 2013, letter to the Council, NMFS offered to be the technical lead on an omnibus amendment to establish the administrative mechanism to allow for industry-funded observer coverage in New England and Mid-Atlantic FMPs. At its October 2013 meeting, the Council considered NMFS's offer and encouraged NMFS to begin development of the omnibus amendment. NMFS expects to present a preliminary range of alternatives for the

omnibus amendment to the New England and Mid-Atlantic Councils in early 2014.

Comment 9: The Herring Alliance and PEW Environment Group do not agree with disapproval of the observer coverage provisions on the grounds that the Council failed to identify a funding source for the increased observer coverage. They assert that the Council clearly identified industry as the funding source.

Response: NMFS disagrees with the comment that the Council clearly identified industry as the funding source. The amendment states that the preferred funding option for the increased observer coverage requirement is an industry contribution of $325 per sea day. NMFS does not believe this description indicates that the industry would be responsible for paying the full costs of the Council's proposed increased observer coverage requirements, and the analysis of impacts in the FEIS fails to examine the effects that paying for observer coverage in full would have on vessel owners, operators, and crews. In addition, approval and implementation of the Council's preferred industry funding option required considerable development that the Council deferred to NMFS to be completed, subsequent to Amendment 14 approval. We communicated the complexities of developing the preferred funding option to the Council before the Council's approval, and, given the complexities and the incompleteness of the measure, NMFS could not approve the amendment in the required timeline.

There are two types of costs associated with observer coverage: Observer monitoring costs, such as observer salary and travel costs, and NMFS support and infrastructure costs, such as observer training and data processing. Monitoring costs can either be paid by industry or paid by NMFS, but they cannot be shared. NMFS support and infrastructure costs can only be paid by NMFS. The monitoring costs associated with an observer in the mackerel fishery are higher than $325 per day. The FEIS for Amendment 14 analyzed the industry paying $325 per day, but it did not analyze a range of that would approximate the total monitoring costs.

The amendment does not describe or analyze the industry being responsible for paying all observer monitoring costs. Therefore, Amendment 14 does not identify a funding source to cover the costs of increased observer coverage, and that measure was not sufficiently developed to be approved.

Comment 10: The Herring Alliance and PEW Environment Group disagree with NMFS's statement in the proposed rule that there is no legal mechanism to allow timely implementation of the Council's preferred funding options and point to successful precedents set on the West Coast for cost-sharing between NMFS and the industry. The Herring Alliance also suggested that NMFS could simply fund the full number of observer days the budget can accommodate, and require industry to contract with observer service providers to pay in full for the rest.

Response: In Amendment 14, the increased observer requirements are coupled with an industry contribution of $325 per day. The monitoring costs associated with an observer in the mackerel fishery are higher than $325 per day. The cost-sharing of observer monitoring costs between NMFS and the industry violates the Anti-Deficiency Act and the Miscellaneous Receipts Act. NMFS may pay all the observer monitoring costs (e.g., NEFOP observers) or the industry may pay all the observer monitoring costs directly to a third party (e.g., like in the Atlantic scallop fishery). However, NMFS and the industry cannot both pay towards the same observer monitoring costs. For example, if observer monitoring costs are $700 per sea day, NMFS and industry cannot split the costs 50/50, or by any other proportion, nor can NMFS accept contributions directly from industry to fund observer monitoring costs. Therefore, there is no current legal mechanism to allow cost-sharing of monitoring costs between NMFS and the industry.

In the Pacific Groundfish Trawl Program, the industry is required to pay all observer monitoring costs directly to a third party. However, as a way to transition the industry to paying all observer monitoring costs, NMFS is reimbursing the observer service providers a percentage of the observer monitoring costs through a time-limited grant with Pacific States Marine Fisheries Commission. The level of reimbursement is contingent on available NMFS funding, is expected to decrease over time, and will end such that eventually the industry will be paying all observer monitoring costs. Subject to NMFS funding, this grant mechanism may also be a temporary option to reimburse the mackerel industry for observer monitoring costs. But this funding mechanism is very different than the measure proposed in Amendment 14, and NMFS cannot modify the proposed measure to make it consistent with the Anti-deficiency Act.

As described previously, NMFS has offered to be the technical lead on an omnibus amendment to establish the administrative mechanism to allow for industry-funded observer coverage in New England and Mid-Atlantic FMPs, and expects to present a preliminary range of alternatives for the omnibus amendment to the New England and Mid-Atlantic Councils in early 2014.

Comment 11: The Herring Alliance and PEW Environment Group expressed their view that, consistent with other government programs, vessels should not be allowed to fish if an observer cannot be deployed on a trip due to insufficient funding (either industry or NMFS, or both).

Response: Preventing vessels from fishing would be a new policy that was clearly not the intent of the Council in the observer measures in Amendment 14. Implementing such a provision would have required a Council decision and analysis in Amendment 14, or would require future Council action.

Comment 12: Several commenters urged NMFS to approve measures prohibiting slippage, requiring a released catch affidavit, and slippage caps to improve catch monitoring and reduce wasteful discarding. They believe slippage caps, and the subsequent trip termination provisions, are critical to the effectiveness of catch monitoring and bycatch estimation in the mackerel fishery, are consistent with the MSA and other applicable law, and necessary to meet requirements to end overfishing, minimize bycatch, and ensure accountability. They believe the proposed cap on the number of slippage events (i.e., 10 non-exempted slippage events fleetwide) is a carefully designed expansion of the regulations in place for Closed Area I for herring vessels or the requirement to stop fishing in an area when the sub-ACL has been harvested, and that the cap amounts are based on existing data and set at levels high enough that allow the fleet to avoid trip termination while preventing unlimited slippage.

Response: NMFS approved measures prohibiting slippage on observed mackerel and longfin squid trips and requiring a released catch affidavit for slippage events on such trips. NMFS expects that prohibiting slippage will help reduce slippage events in the mackerel and longfin squid fisheries. NMFS believes this will improve the quality of observer catch data, especially data on bycatch species encountered in both fisheries. NMFS also expects the released catch affidavit to help provide insight into when and why slippage occurs. Additionally, NMFS expects that the slippage prohibition will help

minimize bycatch, and bycatch mortality, to the extent practicable in the mackerel and longfin squid fisheries.

NMFS disapproved the proposed slippage cap on the mackerel fishery, and the associated trip termination requirement, because of concerns about the details of the slippage cap. Under the proposed measure, once a slippage cap had been met, vessels that slip catch would have been required to return to port. Vessels could continue fishing following slippage events 1 through 10, but would have been required to return to port following the 11th slippage event, regardless of the vessel's role in the first 10 slippage events. Conversely, vessels responsible for slippage events 1 through 10, could have continued fishing after the 11th slippage event provided they did not slip catch again. NMFS believes this aspect of the measure is arbitrary.

The measures to minimize slippage are based on the sampling requirements for midwater trawl vessels fishing in Groundfish Closed Area I. However, there are important differences between these measures. Under the Closed Area I requirements, midwater trawl vessels are allowed to continue fishing if they slip catch, but they must leave Closed Area I for the remainder of that trip. The requirement to leave Closed Area I is less punitive than the Amendment 14 proposed requirement to return to port. Additionally, because the consequences of slipping catch apply uniformly to all vessels under the Closed Area I requirements, or when a closure becomes effective when the ACL has been harvested, inequitable application to the fleet is not an issue for the Closed Area I requirements or closure measures, like NMFS believes it is for the Amendment 14 proposed slippage caps.

Even though NMFS disapproved the slippage caps, the prohibition on slippage in the mackerel and longfin squid fisheries, the released catch affidavit, and the ongoing data collection by NEFOP still provide improved monitoring in the mackerel and longfin squid fisheries, increased information regarding discards, and an incentive to minimize discards of unsampled catch.

Comment 13: NMFS received comments from the Herring Alliance, PEW Environment Group, and Wild Oceans that the analysis in the FEIS provides a reasonable basis for capping slippage events at 10 fleet-wide slippage events. The commenters also disagreed with NMFS's statements in the proposed rule that the slippage caps may be punitive or unfair. Wild Oceans suggested that, if the controversy is around the number of allowed slippage events (i.e., 10 allowed non-exempted slippage events before triggering the cap) as opposed to the need to minimize slippage, then the trip termination penalty should apply after all slippage events.

Response: The Amendment 14 FEIS notes that, from 2006–2010, approximately 26 percent (73 of 277, or 15 per year) of hauls on observed mackerel trips (trips that caught 50 percent or more mackerel or at least 100,000 lb (45.34 mt) of mackerel) had some unobserved catch. Hauls may be unobserved for a variety of reasons—for example, transfer of catch to another vessel without an observer, observers not being on deck to sample a given haul, or hauls released from the net while still in the water. The FEIS discusses that, while documented slippage events are relatively infrequent, increases above the estimated 15 unobserved hauls per year could compromise observer data because "high-volume fisheries . . . can catch large quantities of fish in a single tow." NMFS agrees that unobserved hauls can compromise observer data, and that limiting the total number of slippage events to 10 does reduce slippage events from the recent average of 15 unobserved hauls on mackerel trips. However, NMFS does not believe the FEIS provides analysis for why it is operationally justified to allow the fleet 10 un-exempted slippage events prior to triggering the trip termination requirement, as opposed to the selection of any other value.

NMFS disapproved the proposed slippage caps, and the associated trip termination requirement, because of concerns with the legality of the slippage cap. Once the slippage cap has been met, vessels that slip catch would be required to return to port. Vessels may continue fishing following slippage events 1 through 10 but must return to port following the 11th slippage event, regardless of the vessel's role in the first 10 slippage events. Conversely, vessels responsible for slippage events 1 through 10, may continue fishing after the 11th slippage event provided they do not slip catch again. NMFS believes this aspect of the measure is inequitable.

Throughout the development of Amendment 14, NMFS identified potential concerns with the rationale supporting, and legality of, the slippage caps. NMFS highlighted its concerns with these aspects of the slippage cap in the proposed rule. As described in the response to the previous comment, NMFS believes the arbitrary nature of the slippage cap, and the potential for inequitable application to the fleet as a result of the slippage cap, render the proposed slippage cap inconsistent with the MSA and other applicable law. For these reasons, NMFS disapproved the proposed slippage cap.

NMFS agrees with Wild Ocean's recommendation to make the consequences of the slippage cap apply after every non-exempted slippage event and offered this suggestion to the Council in our November 7, 2013, partial approval letter.

Comment 14: The Herring Alliance and PEW Environment Group assert that NMFS stated in the proposed rule that existing procedures in the mackerel fishery are adequate to address slippage. They assert that, though the NEFOP high-volume fishery procedures have been in place for several years, these protocols do not prevent slippage and still allow for significant amounts of catch to be discarded prior to sampling by NEFOP observers. Wild Oceans asserts that NMFS should clarify, through the regulations, the Council's position that slippage is a detrimental practice that should be discouraged, and that simply collecting information on slippage does not convey this message and does not deter its occurrence.

Response: NMFS did not characterize the high-volume fishery procedures as a means to prevent slippage. Rather, NMFS noted that, in contrast to the information that would be collected in the proposed released catch affidavits, the discard logs documented as part of the high-volume fishery observation protocol provide more detailed, comprehensive information on discards. However, NMFS notes that there is a compliance benefit to requiring a released catch affidavit because it would provide information regarding the operator's decisions and may help NMFS understand why slippage occurs. NMFS agrees that the high-volume fishery observation protocol does not prevent slippage, and that it only collects information about slippage events. NMFS reflected the Council's intent that slippage is a detrimental practice that must be discouraged by implementing the slippage prohibitions in the mackerel and longfin squid fisheries. NMFS believes that the slippage prohibition and the associated released catch affidavit requirement should provide a strong incentive to minimize the discarding of unsampled catch and provide increased information regarding discards.

Comment 15: The Herring Alliance and PEW Environment Group assert that NMFS documented slippage as a problem that directly affects the administration of the butterfish

mortality cap on the longfin squid fishery, where longfin squid hauls have been slipped due to the presence of butterfish.

Response: NMFS reiterates that the slippage prohibition and released catch affidavit are also a requirement for longfin squid permit holders, which can help address any issues with the administration of the butterfish mortality cap that may have resulted from past slippage events.

Comment 16: Wild Oceans notes that the proposed regulatory definition of slippage (§ 648.2) does not reflect the description of slippage in Amendment 14, which describes transferring of fish to another vessel that is not carrying a NMFS-approved observer as a slippage event.

Response: While the fish transfer issue is not described in the definition of slippage, it is described in the measures to address slippage at at § 648.11(n)(3)(i).

Comment 17: Commenters support proposed measures requiring limited access mackerel and longfin squid vessels to provide observers with: (1) Safe sampling stations; (2) reasonable assistance; and (3) notification of haulback or pumping.

Response: NMFS recognizes the commenters support for these measures and believes these measures will help improve monitoring in the mackerel and longfin squid fisheries. These measures were approved.

Comment 18: Wild Oceans believes that Amendment 14 should add regulatory text to require both vessels involved in pair trawl fishing to carry observers.

Response: NEFOP randomly assigns observers to mackerel vessels consistent with SBRM coverage requirements to optimize sampling of the mackerel fishery. Because NMFS considered this requirement a directive to NEFOP, rather than as a requirement for pair trawl vessels, it is unnecessary for NMFS to codify the requirement in the regulations. If NEFOP desires to place observers on both vessels in a pair trawl operation, it can do so. The Council will be considering increased observer coverage requirement for the mackerel fishery in the observer-funding omnibus amendment. Until then, NEFOP will continue to assign observers to mackerel vessels in order to best meet SBRM requirements.

4. Comments on Measures To Address River Herring Interactions

Comment 19: Several comments express support for establishing catch caps for a river herring and shad catch cap on the Atlantic mackerel fishery as quickly as possible, and assert that the catch cap is the only measure in Amendment 14 that addresses the National Standard 9 obligation to minimize bycatch to the extent practical. Commenters also stated that, while catch caps and occasional closures can be effective conservation tools for river herring and shad, without increased observer coverage and improved catch monitoring, the caps cannot be effectively administered.

Response: NMFS supports the Council in its efforts to establish the river herring and shad catch cap on the mackerel fishery, and is currently reviewing the Council's proposed catch cap allocation in 2014 Specifications and Management Measures for the MSB Fisheries.

Based on the ASMFC's recent river herring and shad assessments, data are not robust enough to determine a biologically-based river herring and shad catch cap and/or the potential effects on river herring and shad populations of such a catch cap on a coast-wide scale. However, both the Council and NMFS believe catch caps would provide a strong incentive for the Atlantic mackerel industry to continue avoiding river herring and shad and reduce river herring and shad catch to the extent practicable.

NMFS disagrees that the river herring/shad catch caps are the only measure in Amendment 14 that will satisfy the MSA's requirement to minimize bycatch to the extent practicable. Rather, Amendment 14 implements several measures to address bycatch in the mackerel and longfin squid fisheries: (1) Prohibiting catch from being discarded prior to sampling by an at-sea observer (known as slippage), with exceptions for safety concerns, mechanical failure, and spiny dogfish preventing catch from being pumped aboard the vessel, and requiring a released catch affidavit to be completed for each slippage event; (2) evaluating the ongoing bycatch avoidance program investigation of providing real-time, cost-effective information on river herring distribution and fishery encounters; and (3) expanding and adding reporting and sampling requirements designed to improve data collection methods, data sources, and applications of data to better determine the amount, type, disposition of bycatch. NMFS believes these measures provide incentives for bycatch avoidance and gather more information that may provide a basis for future bycatch avoidance or bycatch mortality reduction measures. These measures are supported by sufficient analysis and consideration of the best available scientific information and the MSA National Standards and represent the most practicable bycatch measures for the MSB FMP based on this information at this time.

Finally, while increases to observer coverage may improve the quality of data used to determine the rate of river herring and shad bycatch in the mackerel fishery, NMFS disagrees that the river herring and shad catch cap cannot be administered without the three measures disapproved in Amendment 14. The pre-trip notification requirement for the mackerel fishery that will be implemented through this action will help with the identification of directed mackerel trips and the placement of observers on those trips. The expansion of sampling requirements and the slippage prohibition should help improve data collection on observed trips. Last, as noted in the preamble, we are considering ways for industry-funded observer coverage to help reach the Council's desired coverage increases.

Comment 20: The Herring Alliance, PEW Environment Group, Wild Oceans, Oceana, and the NRDC urged disapproval of the voluntary program investigating river herring distribution and fishery encounters because they believe as a voluntary program it has no place in a regulatory action and will not satisfy the MSA's requirement to minimize bycatch to the extent practicable. They assert that this program should not be a substitute for a meaningful catch cap.

Response: While the voluntary program for river herring monitoring and avoidance does not include regulatory requirements, we believe the program, along with the Council's formal evaluation of the program, has the potential to help vessels avoid river herring during the fishing season and gather information that may help predict and prevent future interactions. The regulations approved in Amendment 14 allow the Council to complete a framework adjustment to codify certain aspects of this important research to help reduce river herring and shad interactions in the mackerel fishery. This could involve adjustments to fleet tracking mechanisms, the use of test tows to determine the extent of incidental catch, thresholds of river herring and shad catch that would require a vessel to move out of a given fishing area, and lengths of time that vessels would need to move out of the area to allow river herring and shad aggregations to migrate. Allowing for the future consideration of this program is not a substitute for the river herring and shad catch cap in the mackerel fishery.

Instead, NMFS hopes for the avoidance program and the catch cap to work in concert. The overall catch cap on river herring and shad should offer incentive for industry to engage in avoiding the incidental catch.

Changes From the Proposed Rule

The proposed rule for Amendment 14 contained all the measures in the amendment that were adopted by the Council in June 2012. As described previously, the proposed rule highlighted NMFS's utility and legal concerns about three measures adopted by the Council. Because the increased observer coverage measure, coupled with a $325 per day industry contribution, slippage cap, and dealer reporting requirements, were ultimately disapproved by NMFS, the regulatory requirements associated with those three measures are not included in this final rule. Specifically, the following proposed regulations are not being implemented: § 648.7(a)(1)(iv), § 648.11(h), § 648.11(i)(3)(ii), § 648.11(m)(4), § 648.14(g)(2)(viii), § 648.22(b)(4)(ii), § 648.22(b)(4)(iv), and § 648.24(b)(7). Sections 648.10 and 648.22 differ slightly in structure, but not content, from the regulations in the proposed rule.

Classification

The Administrator, Greater Atlantic Regional Fisheries Office, NMFS, determined that the approved measures in Amendment 14 to the MSB FMP are necessary for the conservation and management of the MSB fisheries and that they are consistent with the MSA and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared a FEIS for Amendment 14. A notice of availability for the FEIS was published on August 16, 2013 (78 FR 50054). The FEIS describes the impacts of the proposed measures on the environment. Revisions to fishery management program measures, including vessel reporting requirements and trip notification, are expected to improve catch monitoring in the MSB fisheries, with positive biological impacts to the MSB fisheries and minimal negative economic impacts on human communities. Measures to improve at-sea sampling by observers, and measures to minimize discarding of catch before it has been sampled by observers are also expected to improve catch monitoring and have positive biological impacts on the MSB fisheries. The economic impacts of these proposed measures on human communities are varied, but negative economic impacts may be substantial compared to the status quo. Measures to address bycatch are expected to have positive biological impacts and moderate negative economic impacts on fishery participants. Lastly, all measures are expected to have positive biological impacts on non-target species and neutral impacts on habitat. In partially approving Amendment 14 on November 7, 2013, NMFS issued a record of decision (ROD) identifying the selected alternatives. A copy of the ROD is available from NMFS (see **ADDRESSES**).

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses to support this action. A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**) or via the Internet at *http://www.nero.noaa.gov*.

Statement of Need

This action helps improve monitoring of the MSB fisheries with a focus on better evaluation of the incidental catch of river herring and shad, and addresses river herring and shad bycatch issues in the mackerel fishery. A description of the action, why it was considered, and the legal authority for the action is contained elsewhere in this preamble and is not repeated here.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

NMFS received 15 comment letters during the comment periods on the NOA and proposed rule. Those comments, and NMFS's responses, are contained elsewhere in this preamble and are not repeated here. None of the comments are relevant to the analysis of economic impacts on regulated entities.

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

On June 20, 2013, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398). The rule increased the size standard for Finfish Fishing from $4.0 to $19.0 million, Shellfish Fishing from $4.0 to $5.0 million, and Other Marine Fishing from $4.0 to $7.0 million. NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities; thus, they all would continue to be considered small under the new standards. NMFS has determined that the new size standards do not affect the analyses prepared for this action.

The Office of Advocacy at the SBA suggests two criteria to consider in determining the significance of regulatory impacts: Disproportionality and profitability. The disproportionality criterion compares the effects of the regulatory action on small versus large entities (using the SBA-approved size definition of "small entity"), not the difference between segments of small entities. The changes in profits, costs, and net revenues due to Amendment 14 are not expected to be disproportional for small versus large entities, as the proposed action will affect all entities, large and small, in a similar manner. Therefore, this action is not expected to have disproportionate impacts or place a substantial number of small entities at a competitive disadvantage relative to large entities.

The measures in Amendment 14 could affect any vessel holding an active Federal permit to fish for Atlantic mackerel, longfin squid, *Illex* squid, or butterfish. All of the potentially affected businesses are considered small entities under the standards described in NMFS guidelines, because they have gross receipts that do not exceed $19 million annually. In 2012, 1,835 commercial vessels possessed Atlantic mackerel permits (132 limited access permits and 1,703 open access permits), 329 vessels possessed longfin squid/butterfish moratorium permits, 72 vessels possessed *Illex* permits, 1,578 vessels possessed incidental squid/butterfish permits, and 705 vessels possessed squid/mackerel/butterfish party/charter permits. Many vessels participate in more than one of these fisheries; therefore, permit numbers are not additive.

Available data indicate that no single fishing entity earned more than $19 million annually. Having different size standards for different types of marine fishing activities creates difficulties in categorizing businesses that participate in more than one of these activities. For now, the short-term approach is to classify a business entity into the SBA-defined categories based on which activity produced the highest gross revenue. In this case, Atlantic mackerel is the only species with significant recreational fishing, and in 2012, the charterboat industry harvested only 10,000 lb (4.54 mt). Based on these

assumptions, the finfish size standard would apply and the business is considered large, only if revenues are greater than $19 million. No MSB vessels total $19 million in revenues from MSB fishing, but some do have income from other fishing activity. However, it is unlikely that the value exceeds that threshold. Although there are likely to be entities that, based on rules of affiliation, would qualify as large business entities, due to lack of reliable ownership affiliation data NMFS cannot apply the business size standard at this time. NMFS is currently compiling data on vessel ownership that should permit a more refined assessment and determination of the number of large and small entities for future actions. For this action, since available data are not adequate to identify affiliated vessels, each operating unit is considered a small entity for purposes of the RFA, and, therefore, there is no differential impact between small and large entities. Therefore, there are no disproportionate economic impacts on small entities. Section 6.7 in Amendment 14 describes the vessels, key ports, and revenue information for the MSB fisheries; therefore, that information is not repeated here.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements Minimizing Significant Economic Impacts on Small Entities

This final rule contains collection-of-information requirements subject to the PRA and that have been approved by Office of Management and Budget (OMB) under control number 0648–0679. The new requirements, which are described in detail elsewhere in this preamble, were approved as a new collection.

Amendment 14 increases VTR reporting submission frequency for all MSB permit holders from monthly to weekly. MSB permit holders currently submit 12 VTRs per year, so the additional cost of submitting VTRs on a weekly basis is $18. This cost was calculated by multiplying 40 (52 weeks in a year minus 12 (number of monthly reports)) by $0.46 to equal $18. The VTR is estimated to take 5 min to complete. Therefore the total annual burden estimate of weekly VTRs is $18, and 3 hr and 20 min.

This action requires limited access mackerel and longfin squid/butterfish moratorium permit holders purchase and maintain a VMS. Because other Northeast permits require vessels to maintain a VMS, it is estimated that only 80 vessels do not already have a VMS. The average cost of purchasing and installing a VMS is $3,400, the VMS certification form takes an estimated 5 min to complete and costs $0.46 to mail, and the call to confirm a VMS unit takes an estimated 5 min to complete and costs $1. The average cost of maintaining a VMS is $600 per year. Northeast fisheries regulations require VMS activity declarations and automated polling of VMS units to collect position data. Each activity declaration takes an estimated 5 min to complete and costs $0.50 to transmit. If a longfin squid/butterfish moratorium permit holder takes 22 trips per year, the burden estimate for activity declarations would be 1 hr and 50 min, and $11. If a limited access mackerel permit holder takes 8 trips per year, the burden estimate for activity declarations would be 40 min and $4. Each automated polling transmission costs $0.06, and a vessel is polled once per hour every day of the year. The annual estimated cost associated with polling is $526. Vessels may request a power-down exemption to stop position transmission under certain provisions, as described elsewhere in this preamble. The form to request a power-down exemption letter takes 5 min to complete, and costs $0.46 to mail. If each vessel submits a power-down exemption request 2 times a year, the total estimated burden is 10 min and $1. In summary, the total annual burden estimate for a vessel to purchase and maintain a VMS would be 2 hr 10 min and $4,540 for a longfin squid/butterfish moratorium permit holder, and 1 hr and $4,533 for a limited access mackerel permit holder.

Amendment 14 requires that limited access mackerel and longfin squid/butterfish moratorium permit holders submit daily VMS reports. The cost of transmitting a catch report via VMS is $0.60 per transmission, and it is estimated to take 5 min to complete. If a longfin squid/butterfish moratorium permit holder takes 22 trips per year, and each trip lasts an average of 2 days, the burden estimate for activity declarations would be 1 hr and 50 min, and $14. If a limited access mackerel permit holder takes 8 trips per year, and each trip lasts an average of 3 days, the burden estimate for activity declarations would be 40 min, and $5.

This action requires limited access mackerel vessels to submit a pre-landing notification to NMFS OLE via VMS 6 hr prior to landing. Each VMS pre-landing notification is estimated to take 5 min to complete and cost $1. Limited access mackerel permit holders are estimated to take 8 trips per year, so the total annual burden estimate is 40 min, and $8.

Amendment 14 increases the reporting burden for measures designed to improve at-sea sampling by NMFS-approved observers. Limited access mackerel vessels would be required to notify NMFS to request an observer at least 48 hr prior to beginning a trip where they intend to land over 20,000 lb (9.07 mt) of mackerel. The phone call is estimated to take 5 min to complete and is free. If a vessel has already contacted NMFS to request an observer and then decides to cancel that fishing trip, Amendment 14 would require that vessel to notify NMFS of the trip cancellation. The call to notify NMFS of a cancelled trip is estimated to take 1 min and is free. If a vessel takes an estimated 8 trips per year, the total annual reporting burden associated with pre-trip observer notification would be 40 min.

Amendment 14 requires a released catch affidavit for limited access mackerel and longfin squid/butterfish moratorium permit holders that discard catch before it had been made available to an observer for sampling (slipped catch). The reporting burden for completion of the released catch affidavit is estimated to average 5 min. The cost associated with the affidavit is the postage to mail the form to NMFS ($0.46). The affidavit requirement would affect an estimated 312 longfin squid/butterfish moratorium permit holders, and 132 limited access mackerel permit holders. If the longfin squid/butterfish moratorium permit holders slipped catch once per trip with an observer aboard, and took an estimated 22 trips per year, the total annual reporting burden for the released catch affidavit would be 1 hr 50 min, and $10. If the limited access mackerel permit holders slipped catch once per trip with an observer aboard, and took an estimated 8 trips per year, the total annual reporting burden for the released catch affidavit would be 40 min, and $4.

Public comment is sought regarding: Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Regional Administrator (see **ADDRESSES**), and email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

1. Adjustments to the Fishery Management Program

Amendment 14 revises several existing fishery management provisions, including VTR and VMS requirements, to better administer the MSB fisheries. Amendment 14 requires all MSB permit holders to submit VTRs on a weekly basis (Alternative 1c in the FEIS). The no action (alternative 1a) would have maintained monthly reporting requirements for all MSB permit holders, and two additional alternatives would have instituted weekly reporting for just mackerel permit holders (alternative 1bMack) or longfin squid/butterfish permit holders (alternative 1bLong). Weekly VTRs would cost an additional $18 per year compared to status quo, but many permit holders already submit weekly VTRs related to other Northeast permits. Compared to the non-selected alternatives, which would have maintained the monthly VTR reporting requirement, or only extended the weekly reporting requirement to some of the permit categories in this FMP, extending the requirement for weekly VTR reporting to all MSB permit holders improves data for quota monitoring, and brings VTR requirements in line with those for other Northeast permits.

This action requires VMS for limited access mackerel and longfin squid/butterfish moratorium permit holders (alternatives 1eMack and 1eLong), requires trip declarations and daily VMS catch reports for these permit holders (alternatives 1fMack and 1fLong), and requires a pre-landing notifications via VMS in order to land more than 20,000 lb (9.07 mt) of mackerel (alternative 1gMack). The no action alternative (alternative 1a) would not impose VMS requirements for these permit holders, and was rejected because the Council intends to use VMS as a compliance and enforcement tool for area-based management measures currently under consideration. As with the VTR requirements, many limited access mackerel and longfin squid/butterfish moratorium permit holders already have VMS related to other Northeast permits. For permit holders obtaining a new VMS, the new VMS requirements would cost roughly $4,500 for the first year of operation. The FEIS for Amendment 14 discussed that the economic impacts of these reporting requirements is mixed compared to status quo. While short-term operating costs for these fishing vessels is increased compared to status quo, these measures may have long-term positive impacts if they result in less uncertainty and, ultimately, additional harvest being made available to MSB fishery participants. Economic impacts on small entities resulting from the purchase costs of new VMS units have been minimized through a VMS reimbursement program (May 6, 2008; 73 FR 24955) that made grant funds available for vessel owners and/or operators who have purchased a VMS unit for the purpose of complying with fishery regulations. Reimbursement for VMS units is available on a first come, first serve, basis until funds are depleted. More information on the VMS reimbursement program is available from the Pacific States Marine Fisheries Commission (see **ADDRESSES**) and from the NMFS VMS Support Center, which can be reached at 888–219–9228.

Amendment 14 proposed requiring that MSB dealers weigh all landings related to mackerel transactions over 20,000 lb (9.07 mt) (alternative 2d), and all longfin squid transactions over 2,500 lb (1.13 mt) (alternative 2f), and if these transactions were not sorted by species, would be required to document, with each transaction, how they estimated the relative composition of catch. Dealers would be permitted to use volume-to-weight conversions if they were not able to weigh landings (alternative 2g). However, NMFS disapproved the proposed measure, so this action maintains the no action alternative. Dealers currently report the weight of fish, obtained by scale weights and/or volumetric estimates. Because the proposed action does not specify how fish are to be weighed, the proposed action is not anticipated to change dealer behavior, and, therefore, is expected to have neutral impacts in comparison to the no action alternative. Amendment 14 considered four alternatives to the proposed action: The no action alternative; and alternatives 2b, 2c and 2e. Alternative 2b would require that a vessel confirm MSB dealer reports for mackerel landings over 20,000 lb (9.07 mt), *Illex* squid landings over 10,000 lb (4.53 mt), and longfin squid landings over 2,500 lb (1.13 mt). Alternatives 2c and 2e are similar to the proposed alternative in that they would require dealers to weigh all landings related to mackerel transactions over 20,000 lb (9.07 mt) (alternative 2c), and all longfin squid transactions over 2,500 lb (1.13 mt) (alternative 2e), but would have required that relative species composition be documented annually instead of at each transaction. Overall, relative to the no action alternative, the proposed action and Alternatives 2c and 2e may have low negative impacts on dealers due to the regulatory burden of documenting how species composition is estimated. In comparison, Alternative 2b may have a low positive impact on fishery participants, despite an increased regulatory burden, if it minimizes any lost revenue due to data errors in the dealer reports and/or the tracking of MSB catch.

2. Adjustments to the At-Sea Catch Monitoring

Amendment 14 requires a 48-hr pre-trip notification for all vessels intending to retain, possess or transfer 20,000 lb (9.07 mt) or more of Atlantic mackerel in order to facilitate observer placement (alternative 1d48). In addition to the no action alternative (alternative 1a), Amendment 14 also considered requiring a 72-hr pre-trip notification requirement (alternative 1d72). Compared to the no action alternative, both action alternatives may mean that fishermen are not able to embark on fishing trips on short notice, especially if they are selected to take an observer. The selected alternative would, however, improve observer placement compared to the no action alternative; the no action alternative was rejected for this reason. The 72-hr pre-trip notification requirement (alternative 1d72), is inconsistent in timing with 48-hr pre-trip notification requirements for other fisheries in the Northeast. In addition, the 72-hr requirement is even more likely than the selected 48-hr requirement to prevent vessels from departing quickly to target fleeting aggregations of mackerel.

Amendment 14 proposed increases in the observer coverage in the mackerel fishery, specifically 100-percent observer coverage on all (Tiers 1, 2, and 3) midwater mackerel trawl vessels (alternative 5b4) and Tier 1 small-mesh bottom trawl mackerel vessels, 50-percent coverage on Tier 2 small-mesh

bottom trawl mackerel vessels, and 25-percent on Tier 3 small-mesh bottom trawl mackerel vessels (alternative 5c4), with an industry contribution of $325 per day (alternative 5f). However, the proposed measure was disapproved, so this action maintains the no action alternative. Amendment 14 considered four alternatives to the proposed coverage level recommendations: The no action alternative (alternative 5a); 25-percent (alternative 5b1), 50-percent (alternative 5b2), and 75-percent (alternative 5b3) coverage levels for all (Tiers 1, 2 and 3) mid-water trawl mackerel vessels; 25-percent (alternative 5c1), 50-percent (alternative 5c2), and 75-percent (alternative 5c3) coverage levels for all (Tiers 1, 2 and 3) small-mesh bottom trawl mackerel vessels; and coverage levels necessary to achieve target coefficients of variation for river herring bycatch using midwater trawl gear (alternatives 5e1 and 5e2) and small-mesh bottom trawl gear (5e3 and 5e4). Additionally, Amendment 14 considered a phased-in industry funding option (5g) that would shift the cost of the at-sea portion of observer coverage from NMFS to the industry over a 4-yr period. The specific coverage levels under the no action alternative and the 5e alternatives are unknown at this time, because they would depend on an analysis of fishery data from previous years, but coverage levels under these alternatives are expected to be less than 100 percent. Compared to the no action alternative, the proposed $325 contribution per day would increase daily trip costs by 9 percent for single midwater trawl mackerel vessels, 12 percent for paired midwater trawl mackerel vessels, and 20 percent for small-mesh bottom trawl vessels. In general, higher coverage levels, which would result in higher increases in daily costs for fishery participants, would have a negative economic impact on fishery participants, potentially resulting in less effort and lower catch. In the long-term, increased monitoring and improved data collections for the mackerel fishery may translate to improved management of the mackerel fishery that would benefit fishery-related businesses and communities.

Amendment 14 requires limited access mackerel and longfin squid/butterfish moratorium permit holders to bring all catch aboard the vessel and make it available for sampling by an observer (alternative 3j). If catch was slipped before it was sampled by an observer, it would count against a slippage cap and require a released catch affidavit to be completed. Amendment 14 proposed that, if the slippage cap was reached, a vessel would be required to return to port immediately following any additional slippage events (alternative 3l). However, the proposed slippage cap was disapproved and, instead, this action only implements the slippage prohibition and released catch affidavit. Amendment 14 considered the no action alternative, and nine other alternatives to the proposed action. The no action alternative would not establish slippage prohibitions, released catch affidavit requirements, the slippage cap, or trip termination requirements, and was rejected because it was not expected to improve information on catch in the mackerel or longfin squid fisheries or reduce the discarding of catch in these fisheries before it has been sampled. The other non-selected alternatives include various elements of the proposed action. The requirement for mackerel and longfin squid permit holders to complete a released catch affidavit (alternative 3e), a requirement to prohibit mackerel (alternative 3f) and longfin squid (alternative 3g) permit holders from releasing discards before they are bought aboard for sampling were rejected because these requirements were already included in the selected alternative (alternative 3j). Alternatives that included trip termination, including trip terminations requirements after 1 (alternative 3h), 2 (alternative 3i), 5 (alternative 3k), or 10 (alternative 3n) fleet-wide slipped hauls on mackerel or longfin squid vessels carrying observers, individual slippage caps resulting in trip termination (alternative 3p), and a requirement that vessels that terminate a trip would have to take observers on the immediate subsequent trip (alternative 3o), are structures similarly to the proposed trip termination requirement that was disapproved.

Negative impacts associated with all of these alternatives include increased time spent pumping fish aboard the vessel to be sampled by an observer, potential decrease in vessel safety during poor operating conditions, and the administrative burden of completing a released catch affidavit. The penalties associated with slippage vary slightly across the alternatives. The overall impacts of the options that propose trip termination (proposed action) are negative in comparison to the no action alternative. Costs associated with mackerel and longfin squid fishing trips are high, particularly with the current cost of fuel. Trips terminated prematurely could result in unprofitable trips, leaving not only the owners with debt, but crewmembers without income, and negative impacts on fishery-related businesses and communities. Alternatives 3e and 3j may improve information on catch in the mackerel and longfin squid fisheries by requiring vessels operators to document when and why slippage occurs. Alternatives 3f, 3g, and 3j may improve information by prohibiting catch from being discarded before it was sampled by an observer.

3. Measures To Address River Herring Interactions

Amendment 14 establishes catch caps for river herring (alternative 6b) and shad (alternative 6c) in the mackerel fishery. Two alternatives, the proposed action and the no action, were considered. Compared to the no action alternative, the action alternatives have the possibility of resulting in a closure of the directed mackerel fishery before the mackerel quota is reached. This could result in revenue losses as high as $15 million based on 2010 ex-vessel prices, depending on how early the fishery is closed. While there is no direct linkage between river herring and shad catch and stock status, a closure that results from a catch cap in the mackerel fishery could limit the fisheries mortality on these stocks, and was the reason why the no action alternative was rejected.

The selected action also includes support for the existing river herring bycatch avoidance program involving SFC, MA DMF, and SMAST. This voluntary program seeks to reduce river herring bycatch with real-time information on river herring distribution and mackerel fishery encounters. This aspect of the selected action has the potential to mitigate some of the negative impacts of the proposed action by developing river herring bycatch avoidance measures in cooperation with the fishing industry.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule, and will designate such publications as "small entity compliance guides." The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Greater Atlantic

Regional Fisheries Office, and the guide (i.e., permit holder letter) will be sent to all holders of permits for the herring fishery. The guide and this final rule will be available upon request.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 18, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, the definition of "Slippage in the Atlantic mackerel and longfin squid fisheries" is added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Slippage in the Atlantic mackerel and longfin squid fisheries means catch that is discarded prior to being brought aboard a vessel issued an Atlantic mackerel or longfin squid permit and/or prior to making the catch available for sampling and inspection by a NMFS-approved observer. Slippage includes catch released from a codend or seine prior to the completion of pumping catch aboard and catch released from a codend or seine while the codend or seine is in the water. Fish that cannot be pumped and that remain in the net at the end of pumping operations are not considered slippage. Discards that occur at sea after the catch is brought on board and sorted are also not considered slippage.

* * * * *

■ 3. In § 648.7, paragraphs (b)(3)(ii) and (b)(3)(iii) are added, and paragraph (f)(2)(i) is revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(3) * * *

(ii) *Atlantic mackerel owners or operators.* The owner or operator of a vessel issued a limited access mackerel permit must report catch (retained and discarded) of mackerel daily via VMS, unless exempted by the Regional Administrator. The report must include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial number; month, day, and year mackerel was caught; total pounds of mackerel retained and total pounds of all fish retained. Daily mackerel VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if mackerel caught that day have not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

(iii) *Longfin squid/butterfish moratorium permit owners or operators.* The owner or operator of a vessel issued a longfin squid/butterfish moratorium permit must report catch (retained and discarded) of longfin squid daily via VMS, unless exempted by the Regional Administrator. The report must include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial number; month, day, and year longfin squid was caught; total pounds longfin squid retained and total pounds of all fish retained. Daily longfin squid VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if longfin squid caught that day have not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

* * * * *

(f) * * *

(2) * * *

(i) For any vessel not issued a NE multispecies; Atlantic herring permit; or any Atlantic mackerel, longfin squid, *Illex* squid, or butterfish permit; fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received by NMFS within 15 days after the end of the reporting month. If such a vessel makes no fishing trip during a particular month, a report stating so must be submitted, as instructed by the Regional Administrator. For any vessel issued a NE multispecies permit; Atlantic herring permit; or any Atlantic mackerel, longfin squid, *Illex* squid, or butterfish permit; fishing vessel log reports must be postmarked or received by midnight of the first Tuesday following the end of the reporting week. If such a vessel makes no fishing trip during a reporting week, a report stating so must be submitted and received by NMFS by midnight of the first Tuesday following the end of the reporting week, as instructed by the Regional Administrator. For the purposes of this paragraph (f)(2)(i), the date when fish are offloaded will establish the reporting week or month the VTR must be submitted to NMFS, as appropriate. Any fishing activity during a particular reporting week (i.e., starting a trip, landing, or offloading catch) will constitute fishing during that reporting week and will eliminate the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel issued a NE multispecies permit; Atlantic herring permit; or Atlantic mackerel, longfin squid, *Illex* squid or butterfish permit; begins a fishing trip on Wednesday, but returns to port and offloads its catch on the following Thursday (i.e., after a trip lasting 8 days), the VTR for the fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (i.e., a "did not fish" report) would not be required for either earlier week.

* * * * *

■ 4. In § 648.10, paragraphs (b)(9), (b)(10), (n), and (o) are added to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(b) * * *

(9) Vessels issued a Tier 1, Tier 2, or Tier 3 limited access Atlantic mackerel permit; or

(10) Vessels issued a longfin squid/butterfish moratorium permit.

* * * * *

(n) *Limited access Atlantic mackerel VMS notification requirements.* (1) A vessel issued a limited access Atlantic mackerel permit intending to declare into the mackerel fishery must notify NMFS by declaring a mackerel trip prior to leaving port at the start of each trip in order to harvest, possess, or land mackerel on that trip.

(2) A vessel issued a limited access Atlantic mackerel permit intending to land more than 20,000 lb (9.07 mt) of mackerel must notify NMFS of the time and place of offloading at least 6 hr prior prior to arrival, or, if fishing ends less than 6 hours before arrival, immediately upon leaving the fishing grounds. The Regional Administrator may adjust the prior notification minimum time through publication in the **Federal Register** consistent with the Administrative Procedure Act.

(o) *Longfin squid/butterfish VMS notification requirements.* A vessel issued a longfin squid/butterfish moratorium permit intending to declare into the longfin squid fishery must notify NMFS by declaring a longfin

squid trip prior to leaving port at the start of each trip in order to harvest, possess, or land longfin squid on that trip.

■ 5. In § 648.11, paragraph (n) is added to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(n) *Atlantic mackerel, squid, and butterfish observer coverage*—(1) *Pre-trip notification.* (i) A vessel issued a limited access Atlantic mackerel permit or longfin squid/butterfish moratorium permit, as specified at § 648.4(a)(5)(i), must, for the purposes of observer deployment, have a representative provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, telephone number or email address for contact; and the date, time, port of departure, gear type (for mackerel trips), and approximate trip duration, at least 48 hr, but no more than 10 days, prior to beginning any fishing trip, unless it complies with the possession restrictions in paragraph (n)(1)(iii) of this section.

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (i) of this section may only embark on a mackerel or longfin squid trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specified mackerel or longfin squid trip, within 24 hr of the vessel representative's notification of the prospective mackerel or longfin squid trip, as specified in paragraph (i) of this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the mackerel or longfin squid trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing mackerel or longfin squid except as specified in paragraph (iii) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) *Trip limits.* (A) A vessel issued a longfin squid and butterfish moratorium permit, as specified in § 648.4(a)(5)(i), that does not have a representative provide the trip notification required in paragraph (a) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 2,500 lb (1.13 mt) of longfin squid per trip at any time, and may only land longfin squid once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(B) A vessel issued a limited access mackerel permit, as specified in § 648.4(a)(5)(i), that does not have a representative provide the trip notification required in paragraph (i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of mackerel per trip at any time, and may only land mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a longfin squid and butterfish moratorium permit, as specified in § 648.4(a)(5)(i), intends to possess, harvest, or land more than 2,500 lb (1.13 mt) of longfin squid per trip or per calendar day, or a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(i), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of mackerel per trip or per calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

(2) *Sampling requirements for limited access Atlantic mackerel and longfin squid/butterfish moratorium permit holders.* In addition to the requirements in paragraphs (d)(1) through (7) of this section, an owner or operator of a vessel issued a limited access Atlantic mackerel or longfin squid/butterfish moratorium permit on which a NMFS-approved observer is embarked must provide observers:

(i) A safe sampling station adjacent to the fish deck, including: A safety harness, if footing is compromised and grating systems are high above the deck; a safe method to obtain samples; and a storage space for baskets and sampling gear.

(ii) Reasonable assistance to enable observers to carry out their duties, including but not limited to assistance with: Obtaining and sorting samples; measuring decks, codends, and holding bins; collecting bycatch when requested by the observers; and collecting and carrying baskets of fish when requested by the observers.

(iii) Advance notice when pumping will be starting; when sampling of the catch may begin; and when pumping is coming to an end.

(3) *Measures to address slippage.* (i) No vessel issued a limited access Atlantic mackerel permit or a longfin squid/butterfish moratorium permit and carrying a NMFS-approved observer may release fish from the net, transfer fish to another vessel that is not carrying a NMFS-approved observer, or otherwise discard fish at sea, unless the fish has first been brought on board the vessel and made available for sampling and inspection by the observer, except in the following circumstances:

(A) The vessel operator has determined, and the preponderance of available evidence indicates that, there is a compelling safety reason; or

(B) A mechanical failure precludes bringing some or all of the catch on board the vessel for sampling and inspection; or

(C) The vessel operator determines that pumping becomes impossible as a result of spiny dogfish clogging the pump intake. The vessel operator shall take reasonable measures, such as strapping and splitting the net, to remove all fish that can be pumped from the net prior to release.

(ii) If fish are released prior to being brought on board the vessel, including catch released due to any of the exceptions in paragraphs (n)(3)(i)(A)–(C) of this section, the vessel operator must complete and sign a Released Catch Affidavit detailing the vessel name and permit number; the VTR serial number; where, when, and for what reason the catch was released; the estimated weight of each species brought on board (if only part of the tow was released) or released on that tow. A completed affidavit must be submitted to NMFS within 48 hr of the end of the trip.

■ 6. In § 648.14, paragraphs (g)(2)(v) through (vii) are added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) * * *

(2) * * *

(v) *Reporting requirements in the limited access Atlantic mackerel and longfin squid/butterfish moratorium fisheries.* (A) Fail to declare via VMS into the mackerel or longfin squid/butterfish fisheries by entering the fishery code prior to leaving port at the start of each trip to harvest, possess, or land Atlantic mackerel or longfin squid, if a vessel has been issued a Limited Access Atlantic mackerel permit or

longfin squid/butterfish moratorium permit, pursuant to § 648.10.

(B) Fail to notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hr prior to arrival, or, if fishing ends less than 6 hours before arrival, immediately upon leaving the fishing grounds, if a vessel has been issued a Limited Access Atlantic mackerel permit, pursuant to § 648.10.

(vi) Release fish from the codend of the net, transfer fish to another vessel that is not carrying a NMFS-approved observer, or otherwise discard fish at sea before bringing the fish aboard and making it available to the observer for sampling, unless subject to one of the exemptions defined at § 648.11(n)(3) if issued a Limited Access Atlantic mackerel permit, or a longfin squid/butterfish moratorium permit.

(vii) Fail to complete, sign, and submit an affidavit if fish are released pursuant to the requirements at § 648.11(n)(3).

* * * * *

■ 7. In § 648.22, paragraphs (b)(2)(vi) and (b)(4) are added to read as follows:

§ 648.22 Atlantic mackerel, squid, and butterfish specifications.

* * * * *

(b) * * *

(2) * * *

(vi) *River herring and shad catch cap.* The Monitoring Committee shall provide recommendations regarding a cap on the catch of river herring (alewife and blueback) and shad (American and hickory) in the Atlantic mackerel fishery based on best available scientific information, as well as measures (seasonal or regional quotas, closure thresholds) necessary for implementation.

* * * * *

(4) *Additional measures.* The Monitoring Committee may also provide recommendations on the following items, if necessary:

(i) Observer provisions to maximize sampling at § 648.11(n)(2);

(ii) Exceptions for the requirement to pump/haul aboard all fish from net for inspection by at-sea observers in § 648.11(n)(3);

* * * * *

■ 8. In § 648.25, paragraph (a)(1) is revised to read as follows:

§ 648.25 Atlantic mackerel, squid and butterfish framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions, recreational possession limit; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system, including commercial quota allocation procedure and possible quota set-asides to mitigate bycatch; recreational harvest limit; annual specification quota setting process; FMP Monitoring Committee composition and process; description and identification of EFH (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; overfishing definition and related thresholds and targets; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; any other management measures currently included in the FMP, set aside quota for scientific research, regional management; process for inseason adjustment to the annual specification; mortality caps for river herring and shad species; time/area management for river herring and shad species; and provisions for river herring and shad incidental catch avoidance program, including adjustments to the mechanism and process for tracking fleet activity, reporting incidental catch events, compiling data, and notifying the fleet of changes to the area(s); the definition/duration of 'test tows,' if test tows would be utilized to determine the extent of river herring incidental catch in a particular area(s); the threshold for river herring incidental catch that would trigger the need for vessels to be alerted and move out of the area(s); the distance that vessels would be required to move from the area(s); and the time that vessels would be required to remain out of the area(s). Measures contained within this list that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require amendment of the FMP instead of a framework adjustment.

* * * * *

■ 9. Remove § 648.27.

§ 648.27 [Removed]

[FR Doc. 2014–03906 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 36
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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

Office of the Secretary

14 CFR Part 251

[Docket No. DOT–OST–2014–0002]

RIN 2105–AE30

Use of Mobile Wireless Devices for Voice Calls on Aircraft

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

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: The Department of Transportation (DOT or Department) is seeking comment on the effects and implications of adopting a rule to ban voice communications on passengers' mobile wireless devices on flights within, to and from the United States. The Federal Communications Commission (FCC) recently issued a notice of proposed rulemaking that if adopted would, among other things, revise the FCC's prohibition on the use of cellular telephones (cell phones) or other mobile wireless devices to make it possible for aircraft operators to permit passengers to make or receive calls on-board aircraft. FCC's proposal to revise its rules was prompted by the availability of new technology and would provide the benefit of expanded access to mobile wireless services on-board aircraft, including data, text and voice services. *See http://www.fcc.gov/document/review-rules-wireless-services-onboard-aircraft-nprm.* However, under the Department's aviation consumer protection authority, we are seeking comment on whether voice calls on aircraft constitute an unfair practice to consumers pursuant to 49 U.S.C. 41712, and/or are inconsistent with adequate air transportation pursuant to 49 U.S.C. 41702, and if so whether such calls should be banned or restricted (e.g., not allow voice calls at night time).

DATES: Comments should be filed by March 26, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2014–0002 by any of the following methods:

- *Federal eRulemaking Portal:* go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251

Instructions: You must include the agency name and docket number DOT–OST–2014–0002 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

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

SUPPLEMENTARY INFORMATION:

Background

The Department of Transportation (DOT) and the Federal Communications Commission (FCC) have distinct areas of responsibilities with respect to the use of cell phones or other mobile devices for voice communications on aircraft. In general, as explained below, the FCC has authority over various technical issues, the Federal Aviation Administration (FAA) which is a component of DOT has authority over safety issues, and DOT's Office of the Secretary (OST) has authority over aviation consumer protection issues.

FCC has responsibility over various technical issues—*e.g.,* whether cell phones or other mobile devices used during flight would interfere with cellular networks on the ground and should continue to be banned for this reason or whether technological advances have resolved those concerns and FCC should revise its rules to enable the airlines to seek authorization to provide a service that would allow passenger use of such devices during flight.[1]

Pursuant to its aviation safety oversight authority in 49 U.S.C. 106(f) and 44701(a), DOT's Federal Aviation Administration (FAA) has authority over whether Portable Electronic Devices (PEDs) using cellular technology can be safely used on aircraft. Pursuant to FAA guidance, InFO 13010, "Expanding the Use of Passenger Portable Electronic Devices (PED),"[2] in order to allow passengers to use portable electronic devices aircraft operators must first make a determination that passenger PEDs used

[1] FCC's authority on this issue is very broad and derives from a number of disparate statutory provisions. *See, e.g.,* 47 U.S.C. 151, 154(i), 161, 302a, 303(b), 303(r), 303(y), 308, 309, and 332; *see also* 47 CFR Subpart C of Part 1 (setting forth FCC's rules governing agency's exercise of authority to promulgate and amend rules); § 1.903(c) (stating that authority for subscribers to operate mobile or fixed stations in the Wireless Radio Services—which includes Part 87 Aviation Services—is included in the authorization held by the licensee providing service to them); Part 87 generally (setting forth conditions under which radio stations, other than U.S. Government radio stations, may be licensed and used in the Aviation Services) and Subpart F of Part 87 (setting forth current rules governing use of "aircraft stations"—*i.e.,* mobile radio stations in the aeronautical mobile service, other than a survival craft station, located on board an aircraft).

[2] *http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/2013/InFO13010.pdf.*

on board their aircraft will not cause interference with the navigation or communication systems. This determination includes assessing the risks of potential cellular-induced avionics problems.[3] Expanding passenger PED use requires an aircraft operator to revise applicable policies, procedures, and programs, and to institute mitigation strategies for passenger disruptions to crewmember safety briefings and announcements and potential passenger conflicts.

DOT's Office of the Secretary (OST) has the authority under its aviation consumer protection authority to determine whether permitting voice calls on aircraft is an unfair practice to consumers, pursuant to 49 U.S.C. 41712, or would be so disruptive as to be inconsistent with adequate air transportation, pursuant to 49 U.S.C. 41702. The scope of this ANPRM is to gather information that will help DOT conclude whether or not such determinations might be warranted under the provisions cited above. This ANPRM is not seeking comment on the technical or safety aspects of voice communications, which fall under the regulatory authority of the FCC and the FAA, respectively. It is important to note that, if DOT does eventually determine that permitting voice calls is a practice that is unfair or that is inconsistent with adequate air transportation, one possible outcome is that providing passenger voice call service will not be permitted on any U.S. passenger flights.

FCC and Cellular Usage Issues

Currently the FCC's rules prohibit the use of airborne cellular telephones (specifically those using the 800 MHz frequency) and the use of Specialized Mobile Radio (SMR) handsets while airborne.[4] The cell phone ban was adopted in 1991 based on the threat of harmful interference from airborne use of cellular phones to terrestrial cellular networks. The SMR handset rule was adopted based on the same rationale—to prevent harmful interference with land-based operations.[5]

Regarding other airborne broadband access, in 1990 the FCC allocated four megahertz of spectrum for commercial Air-Ground Radiotelephone Service, leading to the deployment of seat-back phones on aircraft.[6] And, since the 1990s, airlines have been permitted to use mobile satellite service (MSS) spectrum to provide data service.[7] Also, starting in 2001, the FCC authorized certain parties on an *ad hoc* basis to use Fixed Satellite Service spectrum to provide broadband connectivity to airborne aircraft.[8] In 2005, the FCC cleared the way for airlines to begin offering Wi-Fi.[9]

Since the adoption of the FCC's ban on the use of cell phones during flight, there has been a proliferation of cell phones, smart phones, and other PEDs, leading to a significant increase in consumer demand for broadband connectivity on board aircraft and the number of passengers using PEDs during flight.[10] The FAA recognized as much when it announced on October 31, 2013, that it had determined that airlines could safely expand passenger use of PEDs during all phases of flight and issued Information for Operators (InFO 13010, "Expanding Use of Passenger Portable Electronic Devices (PED)."[11] The FAA did not address passenger use of voice communication using cellular technology enabled devices in the expanded PED policy because of FCC's existing ban on use of cell phones during flight.

In light of the technical viability of and increasing public interest in using mobile communication services on aircraft in flight, on December 12, 2013, the FCC issued a Notice of Proposed Rulemaking (NPRM) proposing to revise outdated rules and to adopt a consistent regulatory framework that would allow airlines, subject to application of FAA and DOT regulations, to choose whether to enable mobile communications services using an Airborne Access System.[12] In pertinent part, the FCC's NPRM proposes to harmonize its regulations governing the operation of mobile devices on aircraft across all commercial mobile spectrum bands, and to allow mobile communication services on aircraft only if managed by Airborne Access Systems.[13] The FCC's proposal reiterates that the FAA must certify the Airborne Access Systems,[14] and would permit mobile wireless device operations only on aircraft traveling more than 10,000 feet above the ground.[15]

The FCC's proposal makes clear that it is not proposing a mandate for airlines to permit any new airborne mobile services; rather, the FCC is proposing to revise current prohibitions on the operation of wireless devices on aircraft to provide the airlines with a regulatory path for offering their passengers additional airborne mobile broadband services across licensed commercial spectrum bands. The FCC states that its NPRM is "technology-neutral," in that it does not propose to limit the use of mobile communications to non-voice applications; rather it states that any modifications would be at the discretion of individual airlines, in addition to any rules or guidelines adopted by the FAA or OST.[16] The FCC proposal explains that the Airborne Access Systems will provide airlines with the flexibility to deploy or not deploy all mobile communications services. For instance, an airline could program the new equipment to block voice calls while permitting texting, email, and Web surfing.[17]

FAA and Cellular Usage Issues

As stated above, even if the FCC determines that cell phones or other mobile devices used during flight would not interfere with cellular networks and revises its ban, FAA safety regulations would still apply. The FAA is responsible for determining whether cellular technology can safely be used on aircraft. Any installed equipment such as Airborne Access Systems would be subject to FAA certification, just like any other piece of hardware. In addition, the aircraft operator would have to determine that the use of this system will not interfere with the navigation and communications systems of the particular type of aircraft on

[3] See 14 CFR 91.21, 121.306, 125.204, 135.44.

[4] Expanding Access to Mobile Wireless Services OnBoard Aircraft, *Notice of Proposed Rulemaking*, WT Docket No. 13–301, FCC 13–157 (Dec. 13, 2013) (*FCC Mobile Wireless NPRM*) at 4–5 ¶¶ 5–7; 47 CFR 22.925, 90.423.

[5] *Id.* at 5 ¶ 7.

[6] *Id.* at 9 ¶ 16.

[7] *Id.* at 10 ¶ 17.

[8] *Id.*

[9] *Id.* at 9 ¶ 16.

[10] The FCC's NPRM cites a study predicting that by the end of 2013 the number of commercial aircraft providing either Wi-Fi or cellular connectivity will reach 4,048, representing 21 percent of the global fleet. *FCC Mobile Wireless NPRM* at 2 ¶ 2. The FCC also cites a consumer survey indicating that from May 2012 to May 2013, 69 percent of airline passengers who brought a PED onto an aircraft used their devices during the flight. *Id.* at 3 ¶ 2. Further, the FCC reports that global mobile traffic increased by 70 percent from 2011 to 2012 and is projected to increase thirteen-fold by 2017. *Id.* at 11 ¶ 22.

[11] See Press Release, FAA, FAA to Allow Airlines to Expand Use of Personal Electronics (Oct. 31, 2013), *http://www.faa.gov/news/press_releases/news_story.cfm?newsId=15254*.

[12] *FCC Mobile Wireless NPRM* at 1 ¶1.

[13] *Id.* at 11–12 ¶¶ 23–24.

[14] *Id.* at 11–12 ¶¶ 23–24.

[15] *Id.* at 15 ¶ 31.

[16] *Id.* at 4 ¶ 4.

[17] As an example, the FCC states that Aer Lingus currently allows texting and Internet access using mobile communications devices but does not allow voice calls in the cabin, while Virgin Atlantic permits access to the Internet, texting, and making voice calls through its mobile communications system. *Id.* at 17–18 ¶ 41; *See also* Statement of Chairman Wheeler, Re: Expanding Access to Mobile Wireless Services Onboard Aircraft, *Notice of Proposed Rulemaking*, WT Docket 13–301, FCC 13–157 at 45 (Dec. 13, 2013) (*Statement of Chairman Wheeler*).

which it will be used before any restrictions are lifted.

We understand that today a number of foreign air carriers allow the use of passenger cellular telephones with on-board cellular telephone base stations (picocells). We solicit comment from these carriers and from passengers who have flown on these carriers regarding their flight experiences. More specifically, to what extent have passengers used their cell phones for voice communications on airplanes that are equipped for cell phone communications? Have the air carriers received passenger comments or complaints related to cell phone voice communications? If so, what comments or complaints have been received? If complaints or issues were reported, did these issues rise to the level in which they would be considered to be an unfair practice to consumers, and/or inconsistent with adequate transportation pursuant to 49 U.S.C. 41712 and 49 U.S.C. 41702? If DOT were to make such a determination (that voice calls are unfair and/or inconsistent with adequate transportation), foreign air carriers may be subject to these rules. What would be the economic impact of such a requirement?

On October 31, 2013, the FAA announced, based on the report of the PED Aviation Rulemaking Committee (ARC), that it had determined that airlines could safely expand passenger use of PEDs during all phases of flight. Cell phones were excluded from the scope of the ARC's report because of the FCC's rules prohibiting airborne calls using cell phones. In its announcement the FAA stated that passengers with PEDs with cellular capabilities must continue to disable those capabilities during flight (*i.e.*, cellular service turned off).

Prior to the formation of the ARC, the FAA, on August 31, 2012, issued a Notice of Policy, requesting comment on current policy and guidance regarding passenger use of PEDs on-board aircraft.[18] The Notice sought comment on several items including passenger perspectives on PEDs, and asked:

- If some PEDs are found to be compatible with aircraft systems, should there be restrictions on the use of PEDs for other reasons?
- Should voice communications using other technologies such as voice over IP (internet) be limited or restricted?[19]

The Association of Flight Attendants filed a comment and replied that voice over internet or cellular broadband should be banned to reduce in-flight disruptions, noting that most flight attendants and travelers find objectionable the possibility of numerous simultaneous voice calls.[20] Delta Air Lines also filed a comment stating that 64 percent of its passengers indicated that the ability to make phone calls in flight would have a negative impact on the onboard experience.[21]

Office of the Secretary and Cellular Usage Issues

In addition to the FAA's safety responsibilities, the Department (Office of the Secretary, Office of Aviation Enforcement and Proceedings) has the authority and responsibility to protect consumers from unfair or deceptive practices in air transportation under 49 U.S.C. 41712. Using this authority, the Department has found acts to be "unfair" if they are harmful to passengers but could not be reasonably avoided by passengers. For example, the Department relied upon section 41712 and its "unfair" practice component when promulgating the "Tarmac Delay Rule,"[22] 14 CFR 259.4, in which the Department addressed problems consumers face when aircraft sit for hours on the airport tarmac.[23] In doing so, the Department considered the harm to the consumer and the fact that the practice was unavoidable by the consumer. The Department concluded that regulatory action was necessary and that a three-hour time limit is the maximum time after which passengers must be permitted to deplane from domestic flights given the cramped, close conditions in aircraft and the inability of passengers to avoid lengthy tarmac delays.

Here, as with the tarmac delay rules, the Department believes that this practice may be harmful or injurious to the passenger and there may not be a way for the passenger to reasonably avoid the harm. Allowing voice calls on passenger aircraft may be harmful because people tend to talk louder on cellphones than when they're having face-to-face conversations. They are also likely to talk more and further increase the noise on a flight, as passengers would not be simply talking to the persons sitting next to them but can call whomever they like. While some planes may already have seat-back phones in place, we believe that most are rarely used and the Department's concern is not about individual calls but rather the cumulative impact of allowing in-flight calls in close quarters.

In this ANPRM the Department is seeking comment on whether permitting the use of mobile wireless devices for voice calls on aircraft amounts to an unfair practice under section 41712 using the test listed above, and whether there may be countervailing benefits to consumers or competition should voice calls be allowed. Further, we seek comment on whether other types of communications and technologies (like seat-back phones), may also be considered to be an unfair practice under section 41712.

As noted above, 49 U.S.C. 41702 gives the Department the authority and responsibility to ensure safe and adequate service in domestic air transportation. As with section 41712, the Department and its predecessor in these matters have previously used this authority to address actions that have harmful effects on air travelers. In this instance, the Department feels that the potentially harmful effect to consumers is discomfort.

In 1973, the Civil Aeronautics Board (CAB) issued a "smoking rule" under its economic regulations titled, "Part 252—Provision of Designated 'No Smoking' Areas Aboard Aircraft Operated by Certificated Air Carriers," which mandated designated "no smoking" areas on commercial flights.[24] The rule predated a Congressional ban on smoking on scheduled flights. In the preamble to the rule, the CAB cited a joint study by the FAA and the then Department of Health, Education, and Welfare that concluded that the low levels of contaminants in tobacco smoke did not represent a health hazard to nonsmoking passengers on aircraft; however, the study found that a significant portion of the nonsmokers stated that they were bothered by tobacco smoke. As such, the principal basis for the rule was passenger discomfort.[25] The CAB relied upon section 404(a)(1) of the Federal Aviation Act of 1958 (subsequently re-codified as section 41702), requiring air carriers "to provide safe and adequate service, equipment and facilities," as well as section 404(a)(2), requiring air carriers to establish, observe, and enforce "just and reasonable . . . practices" as its statutory authority for this rule. While the initial 1973 determination may have been based primarily upon passenger

[18] 77 FR 53159–02 (Aug. 31, 2012).

[19] *Id.* at 53162, question 5.

[20] Passengers Use of Portable Electronic Devices on Board Aircraft, Docket No. FAA 2012–0752.

[21] *Id.*

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

[23] 74 FR 68983 (Dec. 30, 2009).

[24] 38 FR 12207 (May 10, 1973).

[25] The CAB stated, "unlike persons in public buildings, nonsmoking passengers on aircraft may be assigned to a seat next to, or otherwise in close proximity to, persons who smoke and cannot escape this environment until the end of the flight."

discomfort issues, it is important to note that in more recent actions (statutory ban on smoking aboard aircraft in 49 U.S.C. 41706 and the regulatory ban in part 252 on smoking tobacco products), health risks were among the concerns upon which these actions were based. Through this ANPRM we seek to explore whether the potential for voice communications on mobile wireless devices would necessitate rulemaking pursuant to our authority to ensure adequate service.

During the past two months, the Department's Aviation Enforcement Office has received more than 90 consumer comments from the public expressing dissatisfaction over the possibility of permitting in-flight voice calls, and no comments in support of such calls.[26] In addition to the consumer comments noted above, some entities have made public statements in the media indicating various positions on the issue of voice calls. The Association of Flight Attendants released a statement opposing voice calls, stating: "As the last line of defense in our nation's aviation system, flight attendants understand the importance of maintaining a calm cabin environment, and passengers agree." [27] Similar views were expressed by several U.S. airlines. Delta Air Lines publicly stated it will not permit voice calls regardless of what the government allows, citing "overwhelming sentiment" to keep the ban in place.[28] JetBlue Airways and United Airlines have also indicated that they intend to keep the ban on calls in place.[29] In addition, legislation has been introduced in the House of Representatives and Senate to address the concern over in-flight voice calls. On December 12, 2013, Senator Diane Feinstein and Senator Lamar Alexander introduced legislation, titled *Commercial Flight Courtesy Act,*[30] to ban cell phone conversations on commercial airline flights, but permit the use of texting and other electronic communication, pending FCC approval. That same week, Rep. Bill Shuster introduced a bill, *Prohibiting In-Flight Voice Communications on Mobile Wireless Devices Act of 2013,*[31] to prohibit in-flight voice communications, but permit other types of electronic communication.

The concerns raised by the public, airlines, flight attendants, and members of Congress regarding the possibility of in-flight voice calls on aircraft have prompted the Department to issue this advance notice of proposed rulemaking seeking comment on use of mobile wireless devices for voice calls on aircraft. Permitting voice calls in an enclosed cabin space has the potential, according to comments the Department received, to drastically alter the flying public's experience.

Unlike other public environments, the option to remove oneself from the disruption, inconvenience, and/or nuisance of listening to someone else's phone call does not appear to exist on an airplane. Further, the Department believes that the possibility of cumulative impact of having a large number of passengers talking on their cell phones increases the level of passenger discomfort. The Department seeks comment, described more specifically below, on whether it would be feasible to create "quiet sections" as exist on Amtrak trains and in other public places, or to issue guidelines on when airlines should disable passenger voice communication technology at certain times or under certain circumstances (i.e., at night time, on flights of a certain length, etc.) . While the Department does not oppose the use of cell phones and other mobile devices for mobile wireless data services, such as sending and receiving text messages and email, there is concern that the pervasiveness of in-flight voice calls could create an oppressive environment for passengers, especially for those on long-haul flights. We note that we are not considering the inclusion of seat-back phones or other phones installed on aircraft in a proposed ban. While passengers are able to make voice calls in-flight through such phones, the service is usually relatively expensive, sparingly used, and to our knowledge have been in use for years largely without incident. We are concerned about the cumulative impact of allowing in-flight calls across our national aviation system, rather than individual calls which may be seen as "petty annoyances."

As we consider whether the passenger experience would be so disrupted by in-flight calls that to permit those calls would be an "unfair" practice and/or render the service provided "inadequate," we seek comment on the following issues. The most helpful comments reference a particular part of the proposal, explain the reason for any recommended change, and include supporting data as well as cost and benefit information.

1. Is it necessary for the Department to propose a rule to deem passenger voice communications as an unfair practice, and ban voice communications on passengers' mobile wireless devices on flights conducted under 14 CFR Part 91 Subpart K (fractional ownership programs), Part 121 (generally, scheduled airlines and charter operators of large aircraft), Part 125 (operations with aircraft having 20 or more passenger seats where common carriage is not involved), Part 129 (foreign air carriers), and/or Part 135 (commuter, on demand and air-taxi operations) within, to and from the United States. If so, on what basis is there a need for this regulation? We note that when in the airspace of a foreign country, a U.S. aircraft operator may allow the use of PEDs only if it is consistent with that country's rules.

2. Information on the possible benefits of allowing voice communications on passengers' mobile wireless devices on flights conducted under 14 CFR Part 91 Subpart K (fractional ownership programs), Part 121 (generally scheduled airlines and charter operators of large aircraft), Part 125 (operations with aircraft having 20 or more passenger seats where common carriage is not involved), Part 129 (foreign air carriers), and/or Part 135 (commuter, on demand and air-taxi operations) within, to and from the United States. Are there airlines that would opt to provide this service to passengers, should the opportunity arise? Are there passengers or passenger groups that would like to be allowed to use their mobile devices for voice communications while in flight (e.g., anytime, for important business or personal calls, emergencies)? Whether or not the Department should refrain from issuing a notice of proposed rulemaking on this topic and instead allow the airlines to develop individual policies.

3. Whether a proposed ban should include all in-flight voice communications on mobile wireless devices regardless of whether the mode is through an Airborne Access System, Wi-Fi, or satellite. If so, why?

4. Whether a proposed ban should include exceptions for charter flights, or

[26] The Aviation Enforcement Office categorizes communications received from consumers as complaints, comments, or inquiries. A 'comment' for this purpose is an expression of opinion on an issue, as opposed to a complaint about a specific incident that the consumer was involved in. These 'comments' sent to the Aviation Enforcement Office are not comments in the rulemaking sense; they were not filed in response to this ANPRM and are not in the docket.

[27] *See U.S. airlines want to stay cell phone free,* CNNMoney, *http://money.cnn.com/2013/12/24/technology/airline-cell-phones/* (Dec. 24, 2013).

[28] *See DOT says not so fast over FCC call to lift ban on in-flight calls,* Associated Press, *http://www.cbsnews.com/news/fcc-says-lift-ban-on-in-flight-calls-dot-replies-not-so-fast/* (last updated Dec. 12, 2013).

[29] *See U.S. airlines want to stay call phone free, supra* note 26.

[30] S.1811 (Dec. 12, 2013).

[31] H.R. 3676 (Dec. 9, 2013).

at least certain charter flights such as single entity charters. If so, why?

5. Whether a ban if adopted should define 'mobile wireless devices.' The House bill, *Prohibiting In-Flight Voice Communications on Mobile Wireless Devices Act of 2013,* defines mobile wireless devices as any portable wireless telecommunications equipment utilized for the transmission or reception of voice data. We would consider this definition to include: Cellular handsets, computers, tablets, electronic games, and any other device that uses radio links to establish a voice call with another party or parties.

6. Whether the Department should consider text-to-speech technologies as an unfair practice under 49 U.S.C. 41712, and/or inconsistent with adequate transportation pursuant to 49 U.S.C. 41702. We seek comment on the benefits or costs of including text-to-speech technologies if the Department determines that in-flight voice communications should be banned or restricted as an unfair practice. In the alternative, we seek comments on the benefits or costs of excluding these technologies from a proposed ban. We also seek comment on whether the Department should consider an exemption from any ban on text-to speech voice applications for systems aimed at facilitating/improving accessibility for passengers with disabilities. The most helpful comments explain the reason or basis for any recommended change, and include supporting data.

7. Whether a proposed ban on voice communications on passengers' mobile wireless devices should not apply prior to the aircraft door closing for departures or after the aircraft door opens for arrivals as this is already permitted today. In other words, whether a proposed ban should begin when the aircraft door closes and is about to take off and end when the aircraft lands and the aircraft door opens. We solicit any additional comments or considerations regarding the duration of the ban on board an aircraft.

8. If the Department issues a notice of proposed rulemaking to ban in-flight voice communications, should that proposed rule account for any of the following considerations:

a. Whether the Department should consider permitting exceptions to the in-flight voice communications ban such as for personal, passenger-related emergencies. If so, how would those be defined?

b. Whether the Department should exempt from the ban any crewmember (where FAA regulations permit), any Federal law enforcement officer, Federal Air Marshal, FAA Aviation Safety Inspector (ASI), or National Transportation Safety Board (NTSB) Investigator, conducting official business.

9. The impact on the flying public of permitting in-flight voice communications. What specifically could be harmful, disruptive, or injurious to the flying public (*e.g.,* impact of allowing in-flight voice calls on some passengers' productivity as they work during a flight)? What could be beneficial?

10. Comments on the possible utility of a quiet zone or a talking zone, for passengers to avoid having to listen to in-flight calls. Is a physical structure (i.e., some kind of enclosure) necessary to create a quiet zone? If so, what are the possible costs and benefits of creating an enclosed area on an aircraft? Is it technically feasible? What design changes would need to be made to the aircraft? What are the possible costs and benefits of such a change to an airline? How would that affect the load capacity of the plane if such changes were implemented?

11. What other options may exist to mitigate the possible disruption of in-flight voice calls? Is there a reasonable way to mitigate the possible disruption?

12. Whether permitting in-flight voice calls is more or less disruptive than other current in-flight "disruptions," such as in-person conversations between passengers If so, why?

13. Whether the benefits of permitting in-flight voice calls outweighs the benefits of prohibiting in-flight voice calls. Describe the nature of those benefits and provide supporting data where possible.

14. Whether the costs of permitting in-flight voice calls outweighs the costs of banning in-flight voice calls. Describe the nature of those costs and provide supporting data where possible.

15. Whether permitting passengers to use all other mobile wireless communications services (e.g., devices for texting, emailing and surfing the Web) except in-flight voice communications would mitigate the drawbacks of a proposed ban on voice communications.

16. We understand that today a number of foreign air carriers allow the use of passenger cellular telephones with on-board cellular telephone base stations (picocells). We solicit comment from these carriers and from passengers who have flown on these carriers regarding their flight experiences. More specifically, to what extent have passengers used their cell phones for voice communications on airplanes that are equipped for cell phone communications? Have the air carriers received passenger comments or complaints related to cell phone voice communications? If so, what comments or complaints have been received? If complaints or issues were reported, did these issues rise to the level in which they would be considered to be an unfair practice to consumers, and/or inconsistent with adequate transportation pursuant to 49 U.S.C. 41712 and 49 U.S.C. 41702? If DOT were to make such a determination (that voice calls are unfair and/or inconsistent with adequate transportation), foreign air carriers may be subject to these rules. What would the economic impact of such a requirement?

17. Is there any other information or data that is relevant to the Department's decision? We note that the most useful comments will explain the reason the information or data is relevant as well as rationale for any recommended change, and include supporting data as well as cost and benefit information. We note that we are not addressing in this rulemaking any safety-related or security-related issues that may exist with the use of mobile wireless devices for voice calls on aircraft. The Transportation Security Administration (TSA) exercises authority over the security of the traveling public. FAA has authority over whether PEDs using cellular technology can be safely used on aircraft.

Regulatory Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This action has been determined to be significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. It has been reviewed by the Office of Management and Budget under that Order.

Executive Orders 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") require agencies to regulate in the "most cost-effective manner," to make a "reasoned determination that the benefits of the intended regulation justify its costs," and to develop regulations that "impose the least burden on society." Additionally, Executive Orders 12866 and 13563 require agencies to provide a meaningful opportunity for public participation. Accordingly, we have asked commenters to answer a variety of questions in order to elicit practical information about any cost or benefit

figures or factors, alternative approaches, and relevant scientific, technical and economic data. These comments will help the Department evaluate whether a proposed rulemaking is needed and appropriate.

B. Executive Order 13132 (Federalism)

This ANPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This notice does not propose any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, (2) imposes substantial direct compliance costs on State and local governments, or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. Executive Order 13084

This ANPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because none of the topics on which we are seeking comment would significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. A direct air carrier or foreign air carrier is a small business if it provides air transportation only with small aircraft (i.e., aircraft with up to 60 seats/18,000 pound payload capacity). See 14 CFR 399.73. If the Department proposes to adopt the regulatory initiative discussed in this ANPRM, it is possible that it may have some impact on some small entities but we do not believe that it would have a significant economic impact on a substantial number of small entities. We invite comment to facilitate our assessment of the potential impact of these initiatives on small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), no person is required to respond to a collection of information unless it displays a valid OMB control number. This ANPRM does not propose any new information collection burdens.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

Issued this 14th Day of February 2014, in Washington, DC.

Anthony R. Foxx,

Secretary of Transportation.

[FR Doc. 2014–03684 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–XX–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–120282–10]

RIN 1545–BJ56

Dividend Equivalents From Sources Within the United States; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a withdrawal of notice of proposed rulemaking, notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a withdrawal of notice of proposed rulemaking, notice of proposed rulemaking and notice of public hearing (REG–120282–10) that was published in the **Federal Register** on Thursday, December 5, 2013 (78 FR 73128). The proposed rules provide guidance to nonresident alien individuals and foreign corporations that hold certain financial products providing for payments that are contingent upon or determined by reference to U.S. source dividend payments and to withholding agents.

DATES: Written or electronic comments and requests for a public hearing for the notice of proposed rulemaking published at 78 FR 73129, December 5, 2013 are still being accepted and must be received by March 5, 2014.

FOR FURTHER INFORMATION CONTACT: D. Peter Merkel at (202) 317–6938 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The withdrawal of notice of proposed rulemaking, notice of proposed rulemaking and notice of public hearing (REG–120282–10) that is the subject of these corrections is under section 871 of the Internal Revenue Code.

Need for Correction

As published, withdrawal of notice of proposed rulemaking, notice of proposed rulemaking and notice of public hearing (REG–120282–10) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, withdrawal of notice of proposed rulemaking, notice of proposed rulemaking and notice of public hearing (REG–120282–10), that was the subject of FR Doc. 2013–28932, is corrected as follows:

1. On page 73131, in the preamble, first column, under paragraph heading "B. Definition of ELI", second line, the language "specified ELI in the 2012 proposed" is corrected to read "a specified ELI in the 2012 proposed"

2. On page 73134, in the preamble, second column, twelfth line from the bottom of the page, the language "security referenced in the contract" is corrected to read "security referenced in the transaction".

3. On page 73135, in the preamble, third column, fifteenth line of the first full paragraph, the language "any of the following to has occurred: (a)" is corrected to read "any of the following has occurred: (a)".

4. On page 73135, in the preamble, third column, Twelfth line from the bottom of the page, the language "option with a delta below 0.7, or both." is corrected to read "option with a delta below 0.70, or both."

5. On page 73136, in the preamble, second column, seventh line from the top of the page, the language "for April 11, 2013, beginning at 10 a.m." is corrected to read "for April 11, 2014, beginning at 10 a.m.".

§ 1.871–15 [Corrected]

6. On Page 73137, first column, the first sentence of paragraph (a)(7)(iv)(B) *Example.* (i) should read "Stock X and Stock Y are underlying securities within the meaning of paragraph (a)(11) of this section.".

7. On page 73137, third column, the first sentence of paragraph (c)(2)(i) should read "A payment pursuant to a section 871(m) transaction that references a distribution with respect to an underlying security is not a dividend equivalent to the extent that the

distribution would not be subject to tax pursuant to section 871 or 881, or withholding under chapter 3 or 4, if the long party owned the underlying security referenced by the section 871(m) transaction.".

8. On page 73137, third column, the first sentence of paragraph (e) should read "With respect to payments made on or after January 1, 2016, a specified ELI is any ELI acquired by the long party on or after March 5, 2014, that has a delta of 0.70 or greater with respect to an underlying security at the time that the long party acquires the ELI.".

9. On page 73141, first column, paragraph (l)(6) *Example 3.* (ii) should read "FI's purchased call option has an initial delta of 0.75 and therefore is a specified ELI and a section 871(m) transaction. FI's purchased call option and sold put option reference the same underlying security. Because FI sold the put option referencing Stock X to adjust FI's economic position associated with the call option referencing Stock X, these options are entered into in connection with each other and treated as a combined transaction under paragraph (l)(1) of this section. Because the delta of the combined transaction is tested on the date that FI entered into the additional transaction, the delta of the combined purchased call option and sold put option is 0.60 (0.35 + 0.25). The combined transaction is not a specified ELI; however, the purchased call option remains a specified ELI.".

§ 1.1441–1 [Corrected]

10. On page 73142, third column, paragraph (b)(4)(xxiii) should read "If a potential section 871(m) transaction is only a section 871(m) transaction as a result of applying § 1.871–15(l) (combined transactions) and the withholding agent did not know that the long party (or a related person) entered into the potential section 871(m) transaction in connection with any other potential section 871(m) transaction, the potential section 871(m) transaction is exempt from withholding under section 1441(a).".

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2014–03767 Filed 2–21–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–130843–13]

RIN 1545–BL74

Net Investment Income Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a withdrawal of notice of proposed rulemaking and notice of proposed rulemaking.

SUMMARY: This document contains corrections to a withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG–130843–13) that was published in the **Federal Register** on Monday, December 2, 2013, providing guidance on the computation of net investment income.

DATES: Written or electronic comments and requests for a public hearing for the notice of proposed rulemaking published at 78 FR 72451, December 2, 2013 are still being accepted and must be received by March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Adrienne M. Mikolashek at (202) 317–6852 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG–130843–13) that is the subject of these corrections is under section 1411 of the Internal Revenue Code.

Need for Correction

As published, withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG–130843–13) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG–130843–13) that was the subject of FR Doc. 2013–28409, is corrected as follows:

1. On page 72456, in the preamble, first column, twenty-first line from the top of the page, the language "taken income account in computing net" is corrected to read "taken into account in computing net".

2. On page 72456, in the preamble, third column, under the paragraph heading "B. Section 1291 Funds", first line, the language "The Final 2013 Regulations also" is corrected to read "The 2013 Final Regulations also".

3. On page 72457, in the preamble, first column, sixth line of the second full paragraph, the language "chapter 1 under section 953(d) and" is corrected to read "chapter 1 under sections 953(d) and".

4. On page 72457, in the preamble, second column, tenth line of the first full paragraph, the language "calculation rules for CFC QEFs, and" is corrected to read "calculation rules for CFCs, QEFs, and".

5. On page 72460, in the preamble, first column, second line from the top of the page, the language "2T(e)(3)(ii)(B)(1)(i) requires the taxpayer" is corrected to read "2T(e)(3)(ii)(B)(*1*)(*i*) requires the taxpayer".

6. On page 72460, in the preamble, first column, sixth line of the second full paragraph, the language "469 do not apply for purposes of these" is corrected to read "section 469 do not apply for purposes of these".

7. On page 72461, in the preamble, second column, twelfth line from the top of the page, the language "through is appropriate" is corrected to read "is appropriate".

8. On page 72461, in the preamble, third column, under the paragraph heading "G. Information Reporting", fifth line, the language "commentators expressed concern that" is corrected to read "commentators expressed concern that the".

§ 1.1411–4 [Corrected]

9. On Page 72470, first column, the paragraph heading for (g)(11)(ii)(B) *Example 1.* should read "*Example 1. Distributive share for unrealized receivables.*"

10. On page 72470, first column, the first and second sentences of paragraph (g)(11)(ii)(B) *Example 1.* (i), should read "A retires from PRS, a business entity classified as a partnership for Federal Income tax purposes for which capital is not a material income producing factor. A is entitled, pursuant to the partnership agreement, to receive 10% of PRS's net income for 60 months commencing immediately following A's retirement in exchange for A's fair market value share of PRS's unrealized receivables.".

11. On page 72470, first column, the fifth sentence of paragraph (g)(11)(ii)(B) *Example 1.* (i), should read "Prior to A's retirement, A materially participated as a general partner in PRS's trade or business within the meaning of § 1.469–5T.".

§ 1.1411–7 [Corrected]

12. On page 72473, second column, the first sentence of paragraph (c)(4),

should read "The amount of net gain or loss from the transferor's Section 1411(c)(4) Disposition that is includable in § 1.1411–4(a)(1)(iii) is determined by multiplying the transferor's chapter 1 gain or loss on the disposition by a fraction, the numerator of which is the sum of income, gain, loss, and deduction items (with any separately stated loss and deduction items netted as negative numbers) of a type that are taken into account in the calculation of net investment income (as defined in § 1.1411–1(d)) that are allocated to the transferor during the Section 1411 Holding Period and the denominator of which is the sum of all items of income, gain, loss, and deduction allocated to the transferor during the Section 1411 Holding Period (with any separately stated loss and deduction items netted as negative numbers).".

13. On page 72473, third column, the second and the third sentence of paragraph (c)(5) *Example 1.* (ii), should read "The total amount of A's allocated net items during the Section 1411 Holding Period equals $1,830,000 ($1,800,000 income from activity X, $10,000 loss from activity Y, and $20,000 income from marketable securities). Thus, less than 5% ($30,000/1,830,000) of A's allocations during the Section 1411 Holding Period are of a type that are taken into account in the computation of net investment income, and because A's chapter 1 gain recognized of $900,000 is less than $5,000,000, A qualifies under § 1.1411–7(c)(2)(ii) to use the optional simplified method.".

14. On page 72474, first column, the second sentence of paragraph (c)(5) *Example 2.,* should read "Under paragraph (c)(4) of this section, A's percentage of Section 1411 Property is determined by dividing A's allocable share of income and loss of a type that are taken into account in the calculation of a net investment income (as defined in § 1.1411–1(d)) that are allocated to the transferor by the Passthrough Entity during the Section 1411 Holding Period is $10,000 ($10,000 loss from Y + $20,000 income from marketable securities) by $1,810,000, which is the sum of A's share of income and loss from all of P's activates ($1,800,000 + ($10,000) + 20,000)."

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2014–03763 Filed 2–21–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Part 553

[Docket ID: BOEM–2012–0076; MMAA104000]

RIN 1010–AD87

Consumer Price Index Adjustments of the Oil Pollution Act of 1990 Limit of Liability for Offshore Facilities

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) is proposing to add a new subpart to its regulations on Oil Spill Financial Responsibility (OSFR) for Offshore Facilities designed to increase the limit of liability for damages applicable to offshore facilities under the Oil Pollution Act of 1990 (OPA), to reflect significant increases in the Consumer Price Index (CPI) since 1990, and to establish a methodology BOEM would use to periodically adjust for inflation the OPA offshore facility limit of liability. BOEM proposes to increase the limit of liability for damages from $75 million to $133.65 million. OPA requires inflation adjustments to the offshore facility limit of liability not less than every three years to preserve the deterrent effect and "polluter pays" principle embodied in the OPA Title I liability and compensation provisions. In addition, the Department of the Interior has determined that this change would further protect the environment by ensuring that any party that causes an oil spill would pay an increased amount of any potential damages.

BOEM is publishing this update to its regulations and is soliciting public comments on the method of updates, the clarity of the rule and any other pertinent matters. The Department is limiting the rulemaking comment period to 30 days since it does not anticipate receiving adverse comments on this rulemaking.

DATES: Submit comments by March 26, 2014.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010–AD87 as an identifier in your submission.

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the entry entitled, "Enter Keyword or ID," enter BOEM–2012–0076, then click search. Follow the instructions to submit public comments and view supporting and related materials available for this rulemaking. BOEM will post all comments received during the comment period.
- Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management; Attention: Peter Meffert, Office of Policy, Regulations and Analysis (OPRA); 381 Elden Street, MS–4001, Herndon, Virginia 20170–4817. Please reference "Consumer Price Index Adjustments of the Oil Pollution Act of 1990 Limit of Liability for Offshore Facilities" in your comments and include your name and return address so that we may contact you if we have questions regarding your submission.
- Email comments to the Department of the Interior; Bureau of Ocean Energy Management; Attention: Peter Meffert, Office of Policy, Regulations and Analysis (OPRA) at *peter.meffert@boem.gov.*

Public availability of 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.

FOR FURTHER INFORMATION CONTACT: Questions regarding the limit of liability established by this proposed rule, or related to the limits of liability adjustment process, should be directed to Dr. Marshall Rose, Chief, Economics Division, Office of Strategic Resources, Bureau of Ocean Energy Management at 381 Elden Street, MS–4050 Herndon, Virginia 20170–4817 at (703) 787–1538 or email at *marshall.rose@boem.gov.*

SUPPLEMENTARY INFORMATION:

Background

In general, under Title I of OPA, the responsible parties for any vessel or facility, including any offshore facility, which discharges, or poses a substantial threat of discharge of, oil into or upon United States navigable waters, adjoining shorelines, or the exclusive economic zone, are liable for the OPA removal costs and damages that result from such incident (as specified in 33 U.S.C. 2702(a) and (b)). Under 33 U.S.C. 2704(a), however, the total liability of the responsible parties is limited (with certain exceptions specified in 33 U.S.C. 2704(c)). In instances when the OPA liability limit applies, the Oil Spill

Liability Trust Fund (OSLTF) is available to compensate responsible parties and other claimants for removal costs and damages in excess of the liability limit, as provided in 33 U.S.C. 2708, 2712(a)(4), and 2713. The OPA at 33 U.S.C. 2704(a)(3) provides that responsible parties for an offshore facility incident are liable for "the total of all removal costs plus $75,000,000." The $75 million limit of liability only applies to OPA damages.

To prevent the real value of the OPA limits of liability from declining over time as a result of inflation, and shifting the financial risk of oil spill incidents to the OSLTF, OPA (33 U.S.C. 2704(d)(4)) requires that the President adjust the limits of liability "not less than every three years," by regulation, to reflect significant increases in the CPI. This mandate has been in place since 1990.

Executive Order 12777, as amended, delegates the implementation of the President's OPA limit of liability inflation adjustment authority, dividing the responsibility among several Federal agencies. Among those delegations, section 4 of Executive Order 12777 vests the Secretary of the Interior (DOI) with authority to adjust the limit of liability for "offshore facilities, including associated pipelines, other than deepwater ports subject to the [Deepwater Port Act of 1974]" for inflation. In addition, section 4 of Executive Order 12777, as amended and in relevant part, vests in the Secretary of the Department in which the Coast Guard is operating the President's authority to adjust for inflation the OPA limits of liability for vessels and deepwater ports (including associated pipelines), and the statutory limit of liability for onshore facilities. This authority has been redelegated by the Secretary of Homeland Security to the Coast Guard.

In 2006, following several large oil spill incidents that exceeded the statutory limits of liability in 33 U.S.C. 2704(a), Congress enacted the Delaware River Protection Act (DRPA) of 2006 (Title VI of the Coast Guard and Maritime Transportation Act of 2006, Pub. L. 109–241, July 11, 2006, 120 Stat. 516). DRPA increased the OPA statutory limit of liability for vessels. In addition, section 603 of DRPA amended OPA (33 U.S.C. 2704(d)(4)) to read as follows: "*Adjustment to reflect consumer price index.* The President, by regulations issued not later than three years after July 11, 2006, and not less than three years thereafter, shall adjust the limits on liability specified in subsection (a) to reflect significant increases in the Consumer Price Index." DRPA thus established a new statutory deadline of 2009 (three years after the passage of DRPA) for the President to promulgate the first set of regulatory inflation adjustments to the limits of liability.

Regulatory History

On July 1, 2009, following substantial coordination with DOI and the other delegated agencies to achieve consistent approaches to the inflation adjustment mandate, the Coast Guard published an Interim Final Rule With Request For Comments (IFR) (74 FR 31357), implementing the first set of regulatory inflation adjustments to the limits of liability for vessels and deepwater ports, and establishing the methodology the Coast Guard will use for future inflation adjustments to the limits of liability for its delegated source categories. (See 33 CFR 138.240. See also, Notice of Proposed Rulemaking, 73 FR 54997 (September 24, 2008), and Final Rule, 75 FR 750 (January 6, 2010)).

As described in the preamble to the Coast Guard's IFR, DOI and other agencies with delegated authority for adjusting the OPA liability limits had originally agreed to follow the Coast Guard's inflation adjustment methodology when adjusting the limits of liability under their responsibility. After the Coast Guard's 2009 rulemaking was completed, DOI and other delegated agencies actively coordinated with the Coast Guard on the next set of inflation adjustments to the OPA liability limits.

Offshore Facility Limit of Liability

This proposed rule would implement the first mandated adjustments, under 33 U.S.C. 2704(d)(4), to the OPA limit of liability for damages for offshore facilities to reflect significant increases in the CPI. This proposed rule would also establish a methodology for making inflation adjustments to the OPA limit of liability for offshore facilities. To ensure maximum consistency in promulgating rules for CPI adjustments to the OPA limits of liability, the approach used by BOEM in the proposed rule, in most respects, and except as discussed further below under "Discussion of this Proposed Rule," follows the inflation adjustment approach used by the Coast Guard in its 2009 CPI rulemaking, which adjusted the limits of liability for vessels and deepwater ports. That approach, found at 33 CFR Part 138, subpart B, went through full notice and comment rulemaking, and received no adverse comments.

Offshore facilities are unique among the vessels and facilities covered under OPA. The OPA, at 33 U.S.C. 2704(a), assigns unlimited liability to the responsible parties for removal costs resulting from an offshore facility oil spill incident, and only limits their liability for the OPA damages that result from such a spill. The statutory offshore facility liability limit for OPA damages is $75 million. This proposed rulemaking would adjust the offshore facility limit of liability for OPA damages to reflect significant increases in the CPI. The responsible parties' liability for OPA removal costs arising from actions or events associated with an offshore facility oil spill incident would remain unlimited.

This proposed rulemaking would increase the $75 million statutory offshore facility limit of liability for OPA damages to $133.65 million. This increase reflects a 78.2 percent increase in the Consumer Price Index—All Urban Consumers (CPI–U) from 1990 through 2013.

Oil Spill Financial Responsibility Requirements Are Not Affected by This Rulemaking

This rulemaking is intended to adjust the OPA offshore facility limit of liability for damages to reflect significant increases in the CPI. It would not affect the level of oil spill financial responsibility (OSFR) coverage (found in 33 U.S.C. 2716(c), and 30 CFR 553.13) that responsible parties must demonstrate for covered offshore facilities (COFs) under subparts B through E in the regulations at 30 CFR Part 553.

The OPA offshore facility limit of liability applies to more facilities than are covered by the OSFR requirement. For example, the limit of liability for offshore facilities applies to all offshore facilities (other than deepwater ports) while OSFR coverage is required only for offshore facilities (other than deepwater ports) located seaward of the coastline, or in any portion of a bay connected to the sea with worst case oil discharge potential of more than 1,000 barrels and meeting other specific criteria in the definition of COF found in 30 CFR 553.3.

The OSFR coverage levels are specified at 33 U.S.C. 2716 and are not tied to the offshore facility limit of liability and therefore are not affected by the inflation adjustments required under OPA at 33 U.S.C. 2704(d)(4). The OSFR coverage provisions of OPA establish minimum and maximum coverage amounts for any activity involving a COF. The OSFR coverage amounts are found in OPA at 33 U.S.C. 2716(c) and in the regulations at 30 CFR 553.13.

Unlike the OPA evidence of financial responsibility requirements applicable to vessels and deepwater ports, which

are administered by the Coast Guard and are directly tied to the applicable CPI-adjusted limits of liability, OSFR coverage requirements are not directly tied to, and their levels do not automatically increase with changes in, the offshore facility limit of liability. OPA does not authorize an OSFR increase based solely on an increase in the limit of liability for offshore facilities occasioned by CPI adjustments. Rather, as stated in 33 U.S.C. 2716(c)(1)(C), any adjustment to the required OSFR coverage amount must be separately "justified based on the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, or transported by the responsible party. . . ."

BOEM may propose various changes to the Oil Spill Financial Responsibility regulations in a separate rulemaking. This rulemaking makes no proposed changes other than those described above.

Additional Regulatory Changes in 30 CFR Part 553

In section 553.1, the purpose section would be expanded to include adjusting the limit of liability. In section 553.3, three new definitions would be added to facilitate the implementation of the inflation adjustment process. The three new terms that would be added to the regulations are as follows: *Annual CPI–U, Current Period,* and *Previous Period.*

Discussion of This Proposed Rule

I. Explanation of the CPI Adjustment to the Offshore Facility Limit of Liability for Damages

This proposed rule would implement the first adjustment, mandated by 33 U.S.C. 2704(d)(4), to the OPA limit of liability for damages for offshore facilities other than deepwater ports to reflect significant increases in the CPI. This rule would also establish the methodology that BOEM will use to make periodic CPI adjustments to the OPA offshore facility limit of liability for damages. These provisions are encompassed in a new 30 CFR 553 subpart G.

As mentioned in the Regulatory History section, the Department of the Interior is, in most respects, following the approach used by the Coast Guard in its 2009 CPI adjustments to the limits of liability for vessels and deepwater ports. That inflation adjustment methodology, found at 33 CFR Part 138, subpart B, went through full notice and comment rulemaking, and received no adverse comments. As discussed further in item 5, below, the only substantive difference between this rulemaking and the Coast Guard's approach is the use of a 1990 "Previous Period," or baseline year, to calculate the percent change in the CPI–U. The Coast Guard rulemaking documents explaining the CPI adjustment methodology are available in the public docket for their rulemaking.

1. How would the Department of the Interior calculate CPI adjustments to the limit of liability for offshore facilities?

We would calculate the new limit of liability for the offshore facility source category using the following formula: New limit of liability = Previous limit of liability + (Previous limit of liability multiplied by the decimal equivalent of the percent change in the CPI from the year the previous limit of liability was established, or last adjusted by statute or regulation, whichever is later, to the present year), then rounded to the closest $100. The only difference in the formula description from the Coast Guard regulations is use of "the decimal equivalent" since a quantity cannot properly be multiplied by a percent, but rather, must be multiplied by the decimal equivalent of a percent. This difference, however, is not substantive.

2. Which CPI would the Department of the Interior use?

The Bureau of Labor Statistics (BLS) publishes a variety of inflation indices. Consistent with the Coast Guard regulations at 33 CFR 138.240, BOEM plans to use the "Consumer Price Index—All Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All Items, 1982–84=100," also known as "CPI–U." CPI–U values may be viewed on the BLS Web site at: *ftp//ftp.bls.gov/pub/special.requests/cpi/cpiai.txt.* This index is used by the Coast Guard for its CPI adjustments to limits of liability, and is the most current and broadest index published by BLS. The CPI–U is also commonly relied on in insurance policies and other commercial transactions with automatic inflation protection, by the media, and by economic analysts.

3. What time interval CPI–U would the Department of the Interior use for the adjustments?

BLS publishes the CPI–U for both monthly and annual periods. For consistency with the Coast Guard's limits of liability CPI adjustment rule at 33 CFR Part 138, subpart B, and simplicity, BOEM would use the annual period CPI–U (hereinafter the "Annual CPI–U") rather than the monthly period CPI–U.

4. How would the Department of the Interior calculate the percent change in the Annual CPI–U?

Consistent with the Coast Guard's inflation adjustment methodology, we would calculate the percent change in the Annual CPI–U using the BLS escalation formula described in Fact Sheet 00–1, U.S. Department of Labor Program Highlights, "How to Use the Consumer Price Index for Escalation," September 2000. This formula provides that: Percent change in the Annual CPI–U = [(Annual CPI–U for Current Period − Annual CPI–U for Previous Period) ÷ Annual CPI–U for Previous Period] × 100. Fact Sheet 00–1 is available from the BLS online at *http://www.bls.gov/cpi/cpi1998d.pdf.*

5. Which Annual CPI–U "Previous Period" and "Current Period" would the Department of the Interior use for its first inflation adjustment to the offshore facility limit of liability?

To maintain the real value of the offshore facility limit of liability for damages, as contemplated in the original OPA mandate that directed the limits of liability be adjusted for the CPI, we would use a "Previous Period" of 1990, the year OPA was enacted. For the "Current Period" we would use the most recently published Annual CPI–U (see 30 CFR 553.73(a)). This approach is consistent with the Coast Guard's OPA limits of liability rule at 33 CFR 138.240 for vessels and deep water ports.

For the calculations in this proposed rulemaking, we have used the 2013 Annual CPI–U, published on January 16, 2014. Future updates would proceed on a 3-year schedule as provided in 30 CFR 553.73.

6. Why is the "Previous Period" the Department of the Interior proposes to use for offshore facilities different than the "Previous Periods" used by the Coast Guard for vessels and deepwater ports, which are also required to be adjusted in accordance with the CPI?

The Coast Guard's 2009 CPI rulemaking established two "Previous Period" dates for the first set of regulatory inflation adjustments to the limits of liability for the Coast Guard delegated source categories. Specifically, the Coast Guard established a "Previous Period" date of 2006 to adjust the statutory limits of liability in 33 U.S.C. 2704(a)(1), (2) and (4) for vessels, onshore facilities and deepwater ports other than Louisiana Offshore Oil Port (LOOP) facilities. As explained in the Coast Guard rulemaking documents, that date was chosen based on the date of enactment

of the DRPA, July 11, 2006, which was the last date Congress adjusted the statutory limits of liability in 33 U.S.C. 2704(a). In addition, the Coast Guard established 1995 as the "Previous Period" date for calculating the first regulatory inflation adjustment to the limit of liability for the Louisiana Offshore Oil Port (LOOP). The August 4, 1995, date was selected based on the date the LOOP deepwater port limit of liability was established by regulation (see 60 FR 39849).

Unlike the Coast Guard's reliance on previous adjustments by legislation in 2006 and regulation in 1995 to determine its "Previous Period" to adjust the limits of liability for vessels and deepwater ports other than LOOP facilities, no such adjustments have occurred for offshore facilities since OPA's enactment in 1990. In the absence of such adjustments, BOEM does not believe it may use a later "previous period" or baseline, given the clarity of the 1990 statutory mandate. Accordingly, BOEM intends to use 1990 as the "Previous Period" date for this first CPI adjustment to the offshore facility statutory limit of liability for damages.

In addition to the fact that there has been no previous adjustment of the limit of liability for offshore facilities, the lessons learned from the *Deepwater Horizon* (DWH) explosion and oil spill support BOEM's intention to use the earlier "Previous Period" of 1990 in this rulemaking. Since the passage of OPA, the DWH offshore facility oil spill has resulted in damages exceeding the offshore facility limit of liability. The DWH explosion and oil spill demonstrates that, although rare, catastrophic offshore facility oil spill incidents causing damages in excess of the offshore facility limit of liability can occur. The DWH incident, moreover, highlights the potential inadequacy of the statutory $75 million-per-incident offshore facility limit of liability for damages, and several bills have been proposed in Congress to repeal or substantially increase that statutory limit of liability.

Given the fact that no adjustments to the limit of liability for offshore facilities have been made since OPA was first enacted in 1990, as well as changes to our collective understanding about the risks of offshore drilling occasioned by the DWH explosion and oil spill, including the possibility of natural resource and other damages exceeding the OPA offshore facility statutory limit of liability, the DOI has determined that it is appropriate to implement the most protective measures available within its existing statutory authorities. Specifically, BOEM believes it is appropriate to recognize the cumulative rate of inflation that has occurred since the passage of OPA for this first adjustment to the offshore facility limit. For that reason, BOEM would use a 1990 "Previous Period" in its CPI adjustment methodology resulting in a CPI percentage increase through 2013 of approximately 78.2 percent (since 1990) versus an increase of 15.6 percent (since 2006).

7. How would the Department of the Interior calculate the adjustment to the limit of liability and what would the new limit be?

The following illustrates how we plan to apply the BLS escalation formula to calculate the decimal equivalent of the percent change in the Annual CPI–U to adjust the limit of liability for offshore facilities. The Annual CPI–U (index base period (1982–84=100)) for Current Period (2013): 232.957 [minus] Annual CPI–U for Previous Period (1990): 130.7 [equals] an index point change: 102.257 [divided by] Annual CPI–U for Previous Period: 130.7 [equals] 0. 782; result multiplied by 100: 0.782 × 100 [equals] percent change in the Annual CPI–U: 78.2 percent. Note that the cumulative percent change value is rounded to one decimal place as provided in § 553.703.

The "Current Period" value for this methodology will be the Annual CPI–U for the previous calendar year, due to the BLS Annual CPI–U publication schedule.

Applying these values, BOEM will adjust the statutory offshore facility limit of liability for OPA damages of $75 million by the 78.2 percent increase in the Consumer Price Index (CPI–U) that has taken place since 1990, to $133,650,000.

8. How would the Department of the Interior calculate the percent change for subsequent inflation adjustments to the OPA limit of liability for offshore facilities?

This rule would also establish the adjustment methodology the DOI would use for subsequent CPI adjustments to the OPA limit of liability for offshore facilities. We would adopt the same calculation methodology found in 33 CFR 138.240 of the Coast Guard regulations referenced earlier. Key features for the future inflation adjustments to the limit of liability include:

- BOEM plans to publish the inflation adjustments to the limit of liability for offshore facilities every three years, beginning in 2014, provided that the threshold for a significant increase in the Annual CPI–U is met, consistent with the Coast Guard regulations at 33 CFR 138.240(b). The current adjustment will use the Annual 2013 CPI–U "Current Period."
- The DOI has discretion to adjust the offshore facility limit of liability more frequently by regulation than every three years to reflect significant increases in the CPI.
- If Congress amends the limit of liability for offshore facilities, we would calculate the Annual CPI–U change with the "Previous Period" beginning with the year in which Congress amends the limit of liability.
- The DOI would evaluate whether the cumulative percent change in the Annual CPI–U since the last "Current Period" has exceeded three percent in the three years beginning in 2017 (using the 2016 Annual CPI–U as the "Current Period"). If the change is greater than three percent, a final rule will be published in the **Federal Register** with the new inflation-adjusted offshore facility limit of liability. The three percent or more constitutes a significant increase threshold. If, following the three-year period, the cumulative percent change in the Annual CPI–U is less than three percent, the DOI would publish a notice of no inflation adjustment to the limit of liability.
- Following a notice of no inflation adjustment, the DOI would evaluate the cumulative percent change in the Annual CPI–U annually and adjust the limit based on the cumulative percent change in the Annual CPI–U once the three-percent threshold is reached.

9. How would BOEM provide public notice for the offshore facility limit of liability adjustments?

BOEM plans to publish subsequent CPI or statutory adjustments to the offshore facility limit of liability for damages through a final rule in the **Federal Register**. A final rule would provide for timely notice of the CPI adjustments and would keep the offshore facility limit of liability amount current in BOEM regulations.

II. Additional Changes to 30 CFR Part 553

1. Update to section 553.1 ("What is the purpose of this part?")

The purpose of this section would be revised to reflect the purpose of the new Subpart G addressing the limit of liability for offshore facilities, as adjusted, under Title I of the Oil Pollution Act of 1990, as amended, 33 U.S.C. 2701 *et seq.* (OPA).

2. Definition changes for terms found at 30 CFR 553.3 ("How are the terms used in this regulation defined?")

We propose to add definitions to 30 CFR 553.3: *Annual CPI–U, current period,* and *previous period.* Also, we would replace the definition in 30 CFR 553.3 of *Responsible party.* BOEM is proposing to replace the definition of *responsible party* because the current regulatory definition is limited to the responsible party for a COF. The proposed definition incorporates the OPA statutory definition and clarifies that if operating rights are limited to particular areas or depths, so are responsible party obligations.

III. Summary of Changes to 30 CFR Part 553 by Subpart

Amendments to Subpart A

Changes to sections 553.1 and 553.3, as described above.

Amendments to Subpart B

None

Amendments to Subpart C

None

Amendments to Subpart D

None

Amendments to Subpart E

None

Amendments to Subpart F

None

Addition of new Subpart G

New Subpart, as described above.

Legal & Regulatory Analyses

Presidential Executive Orders

E.O. 12630—Takings Implication Assessment

According to Executive Order 12630, the proposed rule does not have significant takings implications. The rulemaking is not a governmental action capable of interfering with constitutionally protected property rights. A Takings Implication Assessment is not required.

E.O. 12866—Regulatory Planning and Review

The Office of Management and Budget (OMB) has not reviewed this rulemaking under section 6(a)(3) of E.O. 12866. BOEM does not believe this rulemaking constitutes a "significant regulatory action" under E.O. 12866 based on the following:

(1) These provisions simply adjust the offshore facility limit of liability for damages by the CPI. This rule will likely not have an effect of $100 million or more on the economy. It will likely also not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The new offshore facility limit of liability increases the pollution liability of offshore facility responsible parties and may result in increased costs if damages exceed $75 million. If damages from an offshore facility oil spill exceed $75 million, the higher limit of liability in this rule will impose greater nominal costs on the responsible parties. In constant 1990 dollars, the proposed limit of liability for offshore facilities is the same as established in OPA and preserves the "polluter pays" principle. The infrequent occurrence of large oil spills from offshore facilities suggests that the compliance costs from this increase in the limit of liability are likely to be immaterial to the operating costs for offshore facility responsible parties over time.

The proposed provisions do not impact oil spill financial responsibility under 30 CFR part 553. Based on the maximum potential worst case oil spill discharge, approximately 110 of the 170 companies with COFs are required to demonstrate OSFR coverage of $70 million or less (see 30 CFR 553.13). These 110 companies should see no insurance premium increases because of the increased limit of liability, since the level of required OSFR is not impacted by these adjustments to the current $75 million limit of liability. Another five companies must demonstrate OSFR coverage of $105 million. BOEM believes that these companies will not see increased insurance premiums because of the increase of the limit of liability to $133.65 million, just as the few companies demonstrating the $150 million in OSFR coverage that are not self-insured or guaranteed will also likely not be affected by this proposed rule. However, because BOEM cannot estimate how much, or if, insurance underwriters might increase their premiums for OSFR coverage, we welcome specific comments on the impact of an increased limit of liability, absent corresponding increases in required OSFR coverage.

(2) This proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. BOEM has coordinated with the Coast Guard and the Department of Justice on this rulemaking.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This proposed rule does not raise any novel legal or policy issues. OPA requires the offshore facility limit of liability to be adjusted for inflation not less than every three years.

E.O. 12988—Civil Justice Reform

This proposed rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

E.O. 13045—Protection of Children From Environmental Health Risks and Safety Risks

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

E.O. 13132—Federalism

Under the criteria in E.O. 13132, this proposed rule does not have federalism implications. This proposed rule does not have substantial direct effects on the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule will not affect that role. A Federalism Assessment is not required.

E.O. 13175—Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Under the criteria in E.O. 13175, we evaluated this proposed rule and determined that it has no substantial direct effects on federally recognized Indian tribes.

E.O. 13211—Effects on the Nation's Energy Supply

We have analyzed this proposed rule 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. This proposed rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

E.O. 13563—Improving Regulation and Regulatory Review

E.O. 13563 requires that our regulatory system protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

This Executive Order is supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866. As stated in that Executive Order, and to the extent permitted by law, each agency must, among other things: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive benefits; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information with which choices can be made by the public.

The increased offshore facility limit of liability for damages in this rulemaking is required by statute (OPA). This rulemaking does not amend the OSFR requirements in 30 CFR part 553. Although BOEM does not believe that OSFR insurance premiums will be significantly impacted by this rulemaking, it is soliciting comments on that issue. The limit of liability increase is necessary to ensure that the deterrent effect and the "polluter pays" principle embodied in OPA's liability provisions are preserved.

Clarity of This Regulation

E.O. 12866 (section 1(b)(2)), E.O. 12988 (section 3(b)(1)(B)), and, E.O. 13563 (section 1(a)), and the Presidential Memorandum of June 1, 1998, require that every agency write its rules in plain language. This means that, wherever possible, each rule must: (a) Have a logical organization; (b) use the active voice to address readers directly; (c) use common, everyday words, and clear language, rather than jargon; (d) use short sections and sentences; and (e) maximize the use lists and tables.

If you feel that we have not met these requirements, send your comments to *Peter.Meffert@boem.gov*. To better help us revise the proposed rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you think we wrote unclearly, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Availability of Comments

We will post all comments, including names and addresses of respondents, at *www.regulations.gov*. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that we may make your entire comment—including your personal identifying information—publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Statutes

Data Quality Act

In developing this proposed rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C sec. 515, 114 Stat. 2763, 2763A–153 to 154).

National Environmental Policy Act (NEPA) of 1969

This proposed rule would not constitute a major Federal action significantly affecting the quality of the human environment. BOEM has analyzed this proposed rule under the criteria of the National Environmental Policy Act (NEPA) and the Department's regulations implementing NEPA. This proposed rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental Categorical Exclusion in that this proposed rule is ". . . of an administrative, financial, legal, technical, or procedural nature. . . ." Further, BOEM has analyzed this proposed rule to determine if it involves any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth in 43 CFR 46.215 and concluded that this proposed rule would not involve any extraordinary circumstances.

This proposed rule involves congressionally mandated regulations designed to protect the environment, specifically regulations implementing the requirements of the OPA.

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (NTTAA, Pub. L. 104–113) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not require the use of any technical specifications or standards and, therefore, the requirement to follow voluntary consensus standards does not apply to this rulemaking.

Paperwork Reduction Act (PRA) of 1995

This rulemaking does not contain new information collection requirements, and a submission under the PRA is not required. Therefore, an information collection request is not being submitted

to OMB for review and approval under the PRA (44 U.S.C. 3501 *et seq.*). The OMB approved the information collection for the 30 CFR 553 regulations under OMB Control Number 1010–0106.

Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The changes in the proposed rule may potentially affect all oil and gas lessees and operators of leases and pipeline right-of-way holders in the OCS and in state waters. This could include about 170 active operators and owners. These approximately 170 operators and owners provide OSFR coverage for more than 7,800 OCS Right-of-Use and Easement (RUE) facilities, pipeline Rights-of-Way (ROWs) and leases (both with and without permanent facilities). Small lessees, ROW or RUE holders or operators that operate under this proposed rule primarily fall under the Small Business Administration's (SBA) North American Industry Classification System (NAICS) codes 211111, Crude Petroleum and Natural Gas Extraction, 213111, Drilling Oil and Gas Wells and 237120 Oil and Gas Pipeline and Related Structures. For these NAICS code classifications, a small company is one with fewer than 500 employees. Based on these criteria, an estimated two-thirds of these companies are considered small. This proposed rule, therefore, would affect a substantial number of small entities, but it would not have a significant economic effect on those entities since the OSFR thresholds are not being adjusted.

This proposed rule could impact certain OCS operators and owners through negligibly higher insurance premiums or surety levels. Most small entities do not self-insure, but rather share ownership with larger companies that provide them with OSFR coverage or else they obtain insurance for their OSFR obligations in the private marketplace. We do not expect the 78.2 percent increase in the limit of liability to cause the OSFR insurance premiums to materially increase because of the very low anticipated frequency of claims. Any potential increased insurance premium should be relatively insignificant as compared to the considerable operational costs and liability risks associated with activities on the OCS. This is true for even the smallest of OCS operators and owners. We welcome specific comments on any expected or potential corresponding OSFR premium increases that may occur because of the increased limit of liability or for some related reason.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate an agency's responsiveness to small business. If you wish to comment on the actions of BOEM, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Allegations of discrimination/retaliation filed with the Small Business Administration will be investigated for appropriate action.

Small Business Regulatory Enforcement Fairness Act

Pursuant to section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (*Pub. L. 104–121*), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects and participate in the rulemaking. If you believe that this proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marshall Rose, of the BOEM Economics Division, at the address in the Commenting Section listed above.

This proposed rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule would not:

- Have an annual effect on the economy of $100 million or more;
- cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or,
- have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The requirements of this rule will apply to all entities having oil and gas operations on the OCS.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the BOEM, call 1–888–REG–FAIR (1–888–734–3247).

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments, or the private sector, of more than $100 million per year. The proposed rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

List of Subjects in 30 CFR Part 553

Administrative practice and procedure, Continental shelf, Economic analysis, Environmental impact statements, Environmental protection, Financial responsibility, Government contracts, Intergovernmental relations, Investigations, OCS, Oil and gas exploration, Oil pollution, Liability, Limit of Liability, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds, Treasury securities.

Dated: February 14, 2014.

Tommy P. Beaudreau,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Bureau of Ocean Energy Management, (BOEM) proposes to amend 30 CFR part 553 as follows:

PART 553—OIL SPILL FINANCIAL RESPONSIBILITY FOR OFFSHORE FACILITIES

■ 1. Revise the authority citation for part 553 to read as follows:

Authority: 33 U.S.C. 2704, 2716; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351, as amended.

■ 2. Revise § 553.1 to read as follows:

§ 553.1 What is the purpose of this part?

This part establishes the requirements for demonstrating Oil Spill Financial Responsibility for covered offshore facilities (COF) and sets forth the procedures for claims against COF guarantors and the limit of liability for offshore facilities, as adjusted, under Title I of the Oil Pollution Act of 1990, as amended, 33 U.S.C. 2701 *et seq.* (OPA).

■ 3. Amend § 553.3 by:

■ a. Adding in alphabetical order the terms "Annual CPI–U" "Current period," and "Previous period;"

■ b. Revising the definition of "Responsible party;"

The changes to read as follows:

§ 553.3 How are the terms used in this regulation defined?

* * * * *

Annual CPI–U means the Annual Consumer Price Index—All Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All items, 1982–84 = 100, published by the U.S. Department of Labor, Bureau of Labor Statistics.

* * * * *

Current period means the year in which the Annual CPI–U was most recently published.

* * * * *

Previous period means the year in which the previous limit of liability was established, or last adjusted by statute or regulation, whichever is later.

Responsible party has the meaning in 33 U.S.C. 2701(32)(C), (E) and (F). This definition includes, as applicable, lessees, permittees, right-of-use and easement holders, and pipeline owners and operators. The owner of operating rights in a lease is a responsible party with respect to facilities that serve or served an area and depth in which it holds operating rights, but not with respect to any facility that only serves parts of the lease to which it does not hold operating rights.

* * * * *

■ 4. Add subpart G to part 553 to read as follows:

Subpart G—Limit of Liability for Offshore Facilities

Sec.

Subpart G—Limit of Liability for Offshore Facilities

§ 553.700 What is the scope of this subpart?

This subpart sets forth the limit of liability for damages for offshore facilities under Title I of the Oil Pollution Act of 1990, as amended (33 U.S.C. 2701 *et seq.*) (OPA), as adjusted, under section 1004(d) of OPA (33 U.S.C. 2704(d)). This subpart also sets forth the method for adjusting the limit of liability for damages for offshore facilities for inflation, by regulation, under section 1004(d) of OPA (33 U.S.C. 2704(d)).

§ 553.701 To which entities does this subpart apply?

This subpart applies to you if you are a responsible party for an offshore facility, other than a deepwater port under the Deepwater Port Act of 1974 (33 U.S.C. 1501–1524), but including an offshore pipeline, or an abandoned offshore facility, including any abandoned offshore pipeline.

§ 553.702 What limit of liability applies to my offshore facility?

Except as provided in 33 U.S.C. 2704(c), the limit of OPA liability for a responsible party for any offshore facility, including any offshore pipeline, is the total of all removal costs plus $133.65 million for damages with respect to each incident.

§ 553.703 What is the procedure for calculating the limit of liability adjustment for inflation?

The procedure for calculating limit of liability adjustments for inflation is as follows:

(a) *Formula for calculating a cumulative percent change in the Annual CPI–U.* BOEM calculates the cumulative percent change in the Annual CPI–U from the year the limit of liability was established by statute, or last adjusted by regulation, whichever is later (*i.e.*, the Previous Period), to the year in which the Annual CPI–U is most recently published (*i.e.*, the Current Period), using the following formula: Percent change in the Annual CPI–U = [(Annual CPI–U for Current Period − Annual CPI–U for Previous Period) ÷ Annual CPI–U for Previous Period] × 100. This cumulative percent change value is rounded to one decimal place.

(b) *Significance threshold.* (1) A cumulative increase in the Annual CPI–U equal to three percent or more constitutes a significant increase in the Consumer Price Index within the meaning of 33 U.S.C. 2704(d)(4).

(2) Not later than every three years from the year the limit of liability was last adjusted for inflation, BOEM will evaluate whether the cumulative percent change in the Annual CPI–U since that year has reached a significance threshold of three percent or greater.

(3) For any three-year period evaluated under paragraph (b)(2) of this section in which the cumulative percent increase in the Annual CPI–U is less than three percent, BOEM will publish a notice of no inflation adjustment to the offshore facility limit of liability for damages in the **Federal Register**.

(4) Once the three-percent threshold is reached, by final rule BOEM will increase the offshore facility limit of liability for damages in § 553.702 by an amount equal to the cumulative percent change in the Annual CPI–U from the year the limit was established by statute, or last adjusted by regulation, whichever is later.

(5) Nothing in this paragraph (b) will prevent BOEM, in BOEM's sole discretion, from adjusting the offshore facility limit of liability for damages for inflation by regulation issued more frequently than every three years.

(c) *Formula for calculating inflation adjustments.* BOEM calculates adjustments to the offshore facility limit of liability in § 553.702 for inflation using the following formula:

New limit of liability = Previous limit of liability + (Previous limit of liability × the decimal equivalent of the percent change in the Annual CPI–U calculated under paragraph (a) of this section), then rounded to the closest $100

§ 553.704 How will BOEM publish the offshore facility limit of liability adjustment?

BOEM will publish CPI adjustments to the offshore facility limit of liability in § 553.702 through the publication of final rules in the **Federal Register**.

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BILLING CODE 4310–MR–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

41 CFR Parts 61–250 and 61–300

RIN 1293–AA20

Annual Report From Federal Contractors

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Veterans' Employment and Training Service (VETS) is publishing this Notice of Proposed Rulemaking (NPRM) to propose revisions to the regulations implementing the reporting requirements under the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, ("VEVRAA"). VEVRAA requires Federal contractors and subcontractors to annually report on the total number of their employees who belong to the categories of veterans protected under the Act, and the total number of those employees who were hired during the period covered by the report. The NPRM proposes rescinding the regulations which prescribe the

reporting requirements applicable to Government contracts and subcontracts entered into before December 1, 2003, because VETS believes the regulations have become obsolete.

In addition, the NPRM proposes revisions to the regulations which prescribe the reporting requirements applicable to Government contracts and subcontracts of $100,000 or more entered into or modified on or after December 1, 2003. The NPRM proposes revising the annual report prescribed by the regulations to require contractors and subcontractors to report the specified information for protected veterans in the aggregate rather than for each of the categories of veterans protected under the statute. The NPRM also proposes renaming the annual report prescribed by the regulations the Federal Contractor Veterans' Employment Report VETS–4212 ("VETS–4212 Report"). Further, the NPRM proposes to revise regulations that address the definitions of terms used in the regulations, the text of the reporting requirements clause included in Government contracts and subcontracts, and the methods of filing the annual report on veterans' employment. VETS proposes that contractors begin complying with the reporting requirements in the revised regulations one year after the effective date of the final rule.

DATES: To be assured of consideration, comments must be received on or before April 25, 2014.

ADDRESSES: You may submit comments concerning the NPRM, identified by RIN number 1293–AA20, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 693–1304 (for comments of six pages or less).
- *Email: Torrans.William@dol.gov.* Include "RIN number 1293–AA20" in the subject line of the message.
- *Mail:* William Torrans, Office of National Programs (ONP), Veterans' Employment and Training Service, Room S–1316, 200 Constitution Avenue NW., Washington, DC 20210; Telephone (202) 693–4731.

Comments to OMB concerning information collection requirements should be directed to: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Veterans' Employment Training Service, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

Please submit your comments by only one method. Receipt of submissions will not be acknowledged; however, the sender may request confirmation that a submission has been received by telephoning VETS at (202) 693–4731 or TTY (202) 693–4760. (These are not toll-free numbers).

Instructions: The Department's policy is that all comments received, including any personal information provided, are considered part of the public record and available for public inspection online at *http://www.regulations.gov* and in the Department's public docket. Those submitting comments should not include any personally identifying information (such as your name, address, etc.) they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via *www.regulations.gov* are immediately available for public inspection.

Docket: For access to the docket to read background documents or comments received go to the Federal eRulemaking portal at *http://www.regulations.gov.* The docket materials will be available for public inspection during normal business hours at Room S–1316, 200 Constitution Avenue NW., Washington, DC 20210, or electronically at *http://www.regulations.gov.* Upon request, individuals who require assistance to review comments will be provided with appropriate aids such as readers or print magnifiers. Copies of this NPRM will be made available in the following formats: large print, electronic file on computer disc, and audiotape. To schedule an appointment to review the comments and/or to obtain this NPRM in an alternate format, please contact VETS at the telephone numbers or address listed above.

FOR FURTHER INFORMATION CONTACT: General information and media inquiries: Contact William Torrans, Office of National Programs, Veterans' Employment and Training Service, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–1316, Washington, DC 20210, *Torrans.William@dol.gov,* (202) 693–4731 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, ("VEVRAA"), 38 U.S.C. 4212(d), obligates Federal contractors [1] that are subject to the statute's affirmative action provisions in 38 U.S.C. 4212(a) to report annually to the Secretary of Labor on their employees and new hires who belong to the specific categories of veterans protected under the statute. VETS has promulgated two sets of regulations to implement statutory reporting requirements under VEVRAA before and after amendment in 2002 by the Jobs for Veterans Act, ("JVA") (Pub. L. 107–288).

Prior to the JVA amendments, VEVRAA required contractors to annually report the number of employees in their workforces and new hires during the reporting period, by job category and hiring location, who are special disabled veterans, veterans of the Vietnam era, recently separated veterans, and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The part 61–250 regulations implement these reporting requirements and apply to contracts of $25,000 or more entered into before December 1, 2003, unless they were modified on or after that date and have a value of $100,000 or more. The existing part 61–250 regulations require covered contractors to use the VETS–100 Federal Contractor Veterans' Employment Report ("VETS–100 Report"), and provide data regarding veterans' employment by the four categories of veterans protected under VEVRAA pre-JVA and by the nine occupational categories used in the EEO–1 Standard Employer Information Report EEO–1 Report ("EEO–1 Report") prior to its revision in 2007.

The JVA amendments increased from $25,000 to $100,000, the amount of the contract that triggers the reporting requirement, and changed the categories of veterans protected under the Act. As amended by the JVA, VEVRAA requires contractors to report the number of employees in their workforces and new hires during the reporting period, by job category and hiring location, who are "qualified covered veterans." 38 U.S.C. 4212(d)(1). The statute defines "covered veteran" as any of the following veterans: disabled veterans, Armed Forces service medal veterans, veterans who served on active duty during a war or in a campaign or expedition for

[1] Unless otherwise specified, the term "contractors" refers to Federal contractors and subcontractors.

which a campaign badge has been authorized, and recently separated veterans. 38 U.S.C. 4212(a)(3). The JVA reporting requirements are implemented by the regulations in part 61–300 and are applicable to Government contracts of $100,000 or more entered into on or after December 1, 2003. In addition, a contract that was entered into before December 1, 2003, is subject to the part 61–300 regulations if it was modified on or after December 1, 2003, and meets the contract dollar threshold of $100,000 or more.

The regulations in part 61–300 require contractors to use the Federal Contractor Veterans' Employment Report VETS–100A ("VETS–100A Report") to provide the specified information on veterans' employment. The VETS–100A Report was modeled after the VETS–100 Report, and as a result, contractors are asked to provide data on veterans' employment by the ten occupational categories and subcategories found on the revised EEO–1 Report and by each of the four categories of veterans protected under the JVA amendments.

The instructions for completing the VETS–100 and VETS–100A Reports are substantially similar. Reporting is based on the number of veterans in each category rather than the number of employees protected by VEVRAA. So, for example, an employee who is a disabled veteran and an Armed Forces service medal veteran would be counted in each category. Further, the existing VETS–100 and VETS–100A Reports do not ask contractors to provide the total number of protected veterans in their workforces. Nor do they ask contractors to report the total number of protected veterans who were hired during the reporting period. Moreover, because employees may be counted in more than one veteran category it is not possible for the Government to calculate the total number of protected veterans employed or newly hired in the contractor's workforce based on the data submitted in the existing VETS–100 and VETS–100A Reports. VETS believes it would be preferable for contractors to report the total number of protected veterans employed and hired by Federal contractors in the annual reports required under VEVRAA, rather than the total number of veterans protected under each category. Accordingly, VETS is proposing to revise the manner in which contractors report on their employment and hiring of employees who belong to the categories of veterans protected under VEVRAA.

For example, data showing the total number of protected veterans employed and newly hired during the reporting period would be more appropriate for implementing the amendment to the reporting provisions under VEVRAA made by the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, (Pub. L. 122–154). Section 708 of the Camp Lejeune Families Act requires VETS to publicly disclose on the agency's Web site the information reported in VETS–100 and VETS–100A Reports. The existing VETS–100 and VETS–100A Reports ask contractors to provide, by job category and hiring location, the number of employees in each of the specified categories of veterans and in many instances the category might include only one employee. In their current format, the reports disclose the number of employees who are disabled veterans and in some cases it would be possible for others to discern their identity. For instance, where the VETS–100A Report shows for the hiring location a total of two employees in the Executive/Senior Level Officials and Managers category and one disabled veteran, the identity of the disabled veteran could be easily discovered. While some employees may have no problem with co-workers knowing they are veterans, they may prefer to keep private their status as disabled veterans.

In addition, VETS believes its annual report to Congress regarding the implementation of the reporting requirements under VEVRAA would be more meaningful if VETS could provide data regarding the total number of protected veterans employed and newly hired by Federal contractors. VETS currently includes in the annual report to Congress required under 38 U.S.C. 4107 data showing the number of veterans in each of the categories found on the VETS–100 and VETS–100A Reports. If data on the total number of protected veterans employed and newly hired by Federal contractors were available, it would be feasible to include in the annual report cross-year comparisons of Federal contractors' employment and hiring of protected veterans. Information on the total number of protected veterans employed in Federal contractor workforces from year to year would show trends in their employment of protected veterans, and analyses of those trends could be used to assess the extent to which Federal contractors are providing employment opportunities to protected veterans.

Further, data showing the total number of protected veterans Federal contractors employed or hired during the reporting period would better assist contractors in complying with their affirmative action obligations under VEVRAA. Contractors subject to the reporting requirements under VEVRAA are also required under the Act to take affirmative action to employ and advance in employment protected veterans. 38 U.S.C. 4212(a). The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) administers and enforces the affirmative action requirements under VEVRAA. OFCCP also has promulgated two sets of implementing regulations: The regulations found in 41 CFR part 60–250 implementing VEVRAA prior to amendment by the JVA, and regulations found in 41 CFR part 60–300 implementing the JVA amendments.

OFCCP's existing regulations require contractors with 50 or more employees and contracts that meet the dollar thresholds specified in the regulations ($50,000 or more under the part 60–250 regulations and $100,000 or more under the part 60–300 regulations) to develop and maintain affirmative action programs. As part of their affirmative action programs, contractors are required to undertake appropriate outreach and recruitment activities that are designed to effectively recruit protected veterans. 41 CFR 60–250.44(f) and (g) and 60–300.44(f) and (g). In addition, OFCCP's regulations require contractors to develop and implement audit and reporting systems to measure the effectiveness of their affirmative action programs and the degree to which their objectives have been attained. 41 CFR 60–250.44(h) and 60–300.44(h). VETS believes that it would be most appropriate for Federal contractors to use data showing the total number of protected veterans employed and newly hired during the reporting period to monitor the success of their recruitment and outreach efforts to attract protected veterans.

VETS recognizes that the proposed changes to the manner in which contractors report on their employment of protected veterans may require contractors to change their recordkeeping systems. Accordingly, to ensure that contractors have sufficient time to make any needed adjustments, VETS proposes that contractors begin complying with the reporting requirements in the revised part 61–300 regulations one year after the effective date of the final rule.

Section-by-Section Analysis

41 CFR Part 61–250

VETS is proposing to rescind as obsolete the regulations in part 61–250. As previously mentioned, the part 61–250 regulations apply only to contracts and subcontracts of $25,000 or more entered into prior to December 1, 2003 that have not been modified since that

time and have a value of $100,000 or more. VETS does not believe any contracts subject to the part 61–250 regulations exist today because the Federal Acquisition Regulations (FAR) generally limit the length of government contracts to a maximum period of five years.[2] Thus, unless special excepted contracts exist, contracts covered exclusively by the part 61–250 regulations have already expired or will have expired by the time the final rule rescinding the regulations becomes effective. Any existing contract that was entered into before December 1, 2003, would have been modified since that date, and if valued at $100,000 or more would be covered under the part 61–300 regulations. OFCCP published a final rule on September 24, 2013 (78 FR 58613) to revise regulations implementing the affirmative action provisions of VEVRAA. The final rule rescinds the regulations in part 60–250, which apply to contracts entered before December 1, 2003. In the final rule's preamble, OFCCP stated that the rescission of the part 60–250 regulations was supported by the commenters, many of whom echoed the agency's belief that any contracts for $25,000 or more entered into prior to December 1, 2003, have either terminated or since been modified (which, if over $100,000 would be covered under OFCCP's part 60–300 regulations). (78 FR 58619)

41 CFR Part 61–300

Section 61–300.1 What are the purpose and scope of this part?

This section outlines the purpose and scope of the regulations. The proposed rule would make revisions to paragraph (a) that are necessitated by the proposed rescission of the part 61–250 regulations. The references to the part 61–250 regulations and the Jobs for Veterans Act have been deleted from proposed paragraph (a) because the proposal eliminates the need to distinguish the coverage of the part 61–300 regulations from that of the part 61–250 regulations. In addition, proposed paragraph (a) briefly describes the reporting obligations under VEVRAA and states that contractors and subcontractors must provide the required information on veterans' employment by filing the VETS–4212 Report in accordance with the requirements of § 61–300.11.

The proposed rule would carry forward paragraph (b) of the existing regulation without change. As discussed below in the Section-by-Section Analysis of § 61–300.2, the proposed rule would add a definition for the term "protected veteran." Accordingly, the term "protected veteran" has been substituted for "veteran" in proposed paragraphs (c) and (d).

Section 61–300.2 What definitions apply to this part?

This section contains the definitions of terms used in the regulations. The proposed rule would restructure and renumber the definitions so that they are in alphabetical order and easier to find. In addition, the proposed rule would eliminate the definitions for "covered veteran," "covered incumbent veteran," "other protected veteran," and "qualified." Further, definitions for "active duty wartime or campaign badge veteran," "protected veteran," and "electronic filing" would be added under the proposed rule.

The Veterans Employment Opportunity Act of 1998 (VEOA) amended VEVRAA by extending protection to the category of veterans "who served on active duty in the U.S. military, ground, naval, or air service during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense." Both the VETS and OFCCP regulations implementing the VEOA amendments adopted the term "other protected veteran" to refer to the veterans belonging to this category. OFCCP's September 24, 2013 final rule replaces the term "other protected veteran" with "active duty wartime or campaign badge veteran." As OFCCP explained in the final rule's preamble, the term "other protected veteran" has been misinterpreted as a "catch-all" that includes all veterans rather than shorthand for the category of veterans who served on active duty during a war or in a campaign for which a campaign badge has been authorized. (78 FR 58620) VETS agrees that the "active duty wartime or campaign badge veteran" is an appropriate classification for the category, and therefore the term is set forth in proposed paragraph (b)(1) of § 61–300.2.

Proposed paragraph (b)(4) sets forth a definition for "electronic filing." Under the proposed rule, "electronic filing" means using the VETS web-based filing system to file the VETS–4212 Report. The proposed rule would also define "electronic filing" to include transmitting or delivering the VETS–4212 Report as an electronic data file.

The existing regulations include the term "covered veteran" and indicate that it means a veteran in any of the four categories defined in the section—disabled veteran, other protected veteran, Armed Forces service medal veteran, and recently separated veteran. OFCCP's final rule adds a definition for the term "protected veteran" and define it to mean a veteran belonging to any of the four categories specified in the statute. To maintain consistency, VETS proposes to replace the term "covered veteran" with "protected veteran." Thus, proposed paragraph (b)(10) defines "protected veteran" as a veteran who may be classified as a disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, or an Armed Forces service medal veteran.

Section 61–300.10 What reporting requirements apply to Federal contractors and subcontractors and what specific wording must the reporting requirements contract clause contain?

This section contains the reporting requirements clause that is to be included in each covered government contract or subcontract (and modifications, renewals, or extensions thereof if not included in the original contract). In existing § 61–300.10, paragraphs (a)(1) and (2) of the reporting requirements clause call for contractors to provide, by job category and hiring location, the total number of employees and new hires during the reporting period who are "disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans." Proposed paragraphs (a)(1) and (2) of the clause require contractors to provide the total number of employees and new hires "who are protected veterans." In addition, proposed paragraph (a)(4) of the clause sets forth the definition of "protected veteran" found in proposed § 61–300–2.

The proposed rule would revise paragraphs (b), (c), and (e) of the reporting requirements clause to refer to the "VETS–4212 Report." Further, proposed paragraph (e) does not include

[2] FAR 16.505(c)(1) stipulates that indefinite-delivery task-order contracts for advisory and assistance services cannot exceed five years. FAR 17.104(a) establishes a maximum length of five years for multi-year contracts. For contracts with options, FAR 17.204(e) states that the total of the base and options periods cannot exceed five years. FAR 17.204(e) provides an exception to the five-year limit for information technology (IT) contracts and special cases approved in accordance with agency procedures. Further, FAR 22.1002–1 provides that contracts for services that are subject to the Services Contract Act may not exceed five years.

Although the FAR exempts certain IT contracts from the five-year maximum, agencies may limit the duration so that they can re-compete the contract to take advantage of improvements in service delivery and supplies that subsequently occur in the IT industry. See e.g., Office of Personnel Management, Contracting Policy No. 17.204 Contract Length, January 7, 2007, available at *www.opm.gov/DoingBusiness/contract/.../17.204ContractLength.pdf.*

the term "covered incumbent veterans" because the proposed rule would adopt the term "protected veteran." No other changes are being proposed to the reporting requirements clause in § 61–300.10.

Section 61–300.11 When and how should Federal contractors and subcontractors file VETS–4212 Reports?

Existing § 61–300.11 addresses the VETS–100A Report and when and how contractors should file the reports. The proposed rule would substantially revise this section. The title to the section in the proposed rule would be revised to refer to filing the VETS–4212 Report. References to the report "form" have been removed from proposed § 61–300.11 because the proposed rule, as does the existing regulations, would allow the VETS–4212 Report to be filed electronically as well as in paper format.

Proposed paragraph (a) provides that contractors must use the VETS–4212 Report to provide the information on veterans' employment specified in the reporting requirements clause set forth in § 61–300.10. Under the proposed rule, the VETS–4212 Report would not be included in the regulations nor published in an appendix. Thus, proposed paragraph (a) of § 61–300.11 provides a description of the information requested in the VETS–4212 Report. Removing the VETS–4212 Report from the regulations would make it easier for the agency to make future revisions to the annual report that do not require notice and comment rulemaking. The public still would have an opportunity to comment on subsequent changes to the annual report under the Paperwork Reduction Act clearance procedures. Proposed paragraph (a) of this section further states that contractors must complete a VETS–4212 Report for each hiring location in the manner described in the instructions published on the VETS Web site and included in paper versions of the VETS–4212 Report.

The proposed rule would revise paragraph (b) of this section to refer to the VETS–4212 Report. Proposed paragraph (b) continues to provide that VETS–4212 Reports must be filed by September 30.

Proposed paragraph (c) of this section sets forth the methods for filing the VETS–4212 Report. Proposed paragraph (c)(1) states that electronic filing via the VETS web-based filing system is the preferred method for filing VETS–4212 Reports. Proposed paragraph (c)(1)(i) addresses electronic filing by contractors with one hiring location and states that such contractors may complete and submit a VETS–4212 Report using the web-based filing system. Electronic filing by contractors with multiple hiring locations is addressed in proposed paragraph (c)(1)(ii). Under existing § 61–300.11(b) contractors with 10 or more hiring locations that submit computer-generated reports to comply with the reporting obligation are required to submit the reports in an electronic data file. Similarly, proposed paragraph (c)(1)(ii) requires contractors with 10 or more hiring locations to submit their VETS–4212 Reports in the form of an electronic data file and provides that the electronic data files may be submitted through the web-based filing system, transmitted electronically as an email attachment (if they do not exceed the size stated in the Department of Labor specifications), or submitted on a compact disc or other electronic storage media. The proposed rule also would encourage contractors with fewer than 10 hiring locations to submit VETS–4212 Reports in the form of an electronic data file. Proposed paragraph (c)(2) addresses "alternative filing methods" and provides that the VETS–4212 Report may also be filed in paper format. Proposed paragraph (c)(2) explains that paper versions of the VETS–4212 Report may be downloaded from the VETS Web site or requested by writing to VETS at the address stated in the proposed regulation.

Section 61–300.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?

This section states that OFCCP may determine whether a contractor has submitted a VETS–4212 Report required by the regulations. The proposed rule would carry forward this section without change, except that the word "filed" has been substituted for "submitted" and proposed § 61–300.20 refers to the VETS–4212 Report.

Section 61–300.99 What is the OMB control number for this part?

The proposed rule would make no changes to this section.

Regulatory Procedures

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

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 regulatory action have been examined. The proposed rule will not have an annual effect on the economy of $100 million or more, and it does not raise novel legal or policy issues. Accordingly, it has been determined that the proposed rule is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act and Executive Order 13272 (Consideration of Small Entities)

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, requires agencies issuing rulemaking proposals to consider the impact they are likely to have on small entities. More specifically, the RFA requires agencies to "review rules to assess and take appropriate account of the potential impact on small businesses, small governmental jurisdictions, and small organizations." If a proposed rule is expected to have a "significant economic impact on a substantial number of small entities," the agency must prepare an initial regulatory flexibility analysis (IRFA). If, however, a proposed rule is not expected to have a significant economic impact on a substantial number of small entities, the agency may so certify, and need not perform an IRFA.

Based on the analysis below, in which VETS estimates the impact of complying with the requirements contained in this proposed rule on small entities that are Federal contractors, VETS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In making this certification, VETS determined the approximate number of regulated small entities that will be impacted by the proposed rule. Based on information in the VETS–100 Reporting System regarding reports on veterans' employment filed in 2012, VETS estimates that approximately 15,000 Federal contractors will be subject to the reporting requirements under the proposed rule. The size standard used by the Small Business Administration (SBA) to define small businesses varies by industry, but the SBA uses the "fewer than 500 employees" limit when making an across-the-board classification.[3] Using this size standard, VETS assumes that 8,000 of the Federal contractors and subcontractors that will be subject to the proposed rule are small entities.[4] VETS seeks comment on this assumption. While the RFA does not specifically define "substantial number," VETS concludes that the proposed rule may impact a substantial number of small entities.

However, VETS has determined that the impact on small entities affected by the proposed rule will not be significant. The objective of the proposal is to implement the reporting obligations under VEVRAA in a manner that provides meaningful data on Federal contractors' employment and hiring of protected veterans. As discussed below in the Paperwork Reduction Action section, the proposal will result in a significant reduction in paperwork burden for Federal contractors and subcontractors subject to the VETS–4212 reporting requirement over a ten-year period. VETS believes that Federal contractors and subcontractors may need to adjust their human resources (HR) information systems to provide the information requested in the proposed VETS–4212 Report and therefore estimates one-time implementation costs would total $5.1 million. VETS estimates that Federal contractors and subcontractors subject to the VETS–4212 reporting requirement would have recurring annual costs of about $2.7 million. Thus, VETS estimates that the first-year compliance costs for the proposed rule are approximately $7.8 million. Assuming that each contractor subject to the reporting requirement has a contract valued at the $100,000 minimum for coverage under VEVRAA, VETS estimates that each contractor's share of first-year compliance costs is about $520 ($7.8 million/15,000 contractors) or about 0.52% of the $100,000 minimum contract. After the first year, each contractor's share of the recurring annual costs would be approximately $180 ($2.7 million/15,000) or about 0.18% of the $100,000 minimum contract. Accordingly, VETS considers it appropriate to conclude that the proposed rule will not have a significant economic impact on a substantial number of small entities. VETS invites comment from members of the public who believe there will be a significant economic impact on small entities that are Federal contractors.

Paperwork Reduction Act

The collections of information contained in the existing part 61–250 and part 61–300 regulations implementing the reporting requirements under VEVRAA are subject to review and approval by the Office and Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. The existing information collection instruments—the VETS–100 Report that contractors subject to the part 61–250 regulations are required to use, and the VETS–100A Report that contractors covered under the part 61–300 must use to annually report on their veterans' employment—are currently approved under OMB Control No. 1293–0005.

The proposed rule contains information collections that are subject to review and approval by OMB under the PRA. Proposed § 61–300.11 requires contractors to use a simplified collection instrument that would be renamed the VETS–4212 Report to provide the total number of employees in their workforces; the total number of such employees, by job category and hiring location, who are protected veterans; the total number of new hires during the reporting period covered by the report; the total number of new hires who are protected veterans; and the maximum and minimum number of employees of such contractor during the period covered by the report.

Under the existing part 61–300 regulations, the collection instrument—the VETS–100A Report—is published as an appendix to the regulations. The NPRM does not include the collection instrument in the regulations so that any future changes could be made without notice and comment rulemaking under the Administrative Procedure Act. However, the public would still be able to comment on any proposed changes to the collection instrument under the PRA clearance procedures.

The recordkeeping and reporting burden for the collection of information in proposed § 61–300.11 is imposed through the preparation and submission of the proposed VETS–4212 Report, which is discussed in the paperwork burden analysis of the report below. A copy of the information collection request with applicable supporting documentation, including the proposed VETS–4212 Report and instructions, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain*, on the day following publication of this NPRM, or by contacting William Torrans, at the addresses or telephone number provided at the beginning of the preamble.

VETS encourages comments from the public on the continued collections of information for the VETS–100A Report as well as those in the proposed rule, including comments about the specific format and content of the VETS–4212 Report that VETS is proposing that contractors use to annually report information on their employment of protected veterans. Written comments and suggestions from the public concerning the proposed information collection instrument, the VETS–4212 Report, may also be submitted to OMB at: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Veterans' Training and Employment Service, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov*. OMB requests that comments be received within 30 days of the publication of the proposed rule to ensure their consideration. Please note that comments submitted to OMB are a matter of public record. To help ensure proper consideration, comments to the OMB should mention OMB Control Number 1293–0005. Comments may also be sent directly to VETS in the same way as all other comments (i.e., using any of the methods identified shown in the **ADDRESSES** section in the beginning of the preamble).

[3] SBA Office of Advocacy *Frequently Asked Questions about Small Business*, September 2012, available at *http://www.sba.gov/advocacy/7495/29581*.

[4] The dollar amount of the government contract triggers the reporting requirement under VEVRAA. VETS does not maintain data on the size of Federal contractor workforces. However, VETS believes that a large number of Federal contractors and subcontractors employ more than 500 employees.

The Department and OMB are particularly interested in comments that:

(1) Evaluate whether the proposed information collection is necessary to the proper performance of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the projected burden of the proposed collection of information, including 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 required 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).

Contractors and other members of the public are encouraged to provide data where estimates are provided or assumptions are described. This data could help VETS refine estimates of the amount of time needed to fulfill the reporting requirements. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves it under the PRA, and it displays a currently valid OMB control number. The public is not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. The information collection in the proposed rule is not effective until the final regulations become effective and VETS publishes a **Federal Register** Notice announcing OMB's approval of the proposed new information collection instrument.

Paperwork Burden and Compliance Costs

Estimate of the Burden for the Collection of Information

The paperwork burden that would result from the proposed rule is made up of two components. The first component is the one-time burden of the hours and their equivalent salary cost associated with contractors adjusting their recordkeeping systems to generate the information on veterans' employment required by the proposed revisions to § 61–300.11 and the proposed VETS–4212 Report. The second component is the ongoing annual burden (number of burden hours and their equivalent salary cost and the mailing cost) required for contractors to annually file the proposed VETS–4212 Report.

The currently approved Information Collection Request for the VETS–100 and VETS–100A Report contains paperwork burden hours and costs that are based on the total number of respondents and VETS–100 and VETS–100A Reports filed in 2010. The paperwork burden and costs associated with the proposed VETS–4212 Report are based on data showing the actual number of respondents and VETS–100 and VETS–100A Reports filed in 2012.

One-Time Implementation Burden and Costs

In 2012, approximately 14,700 contractors filed the VETS–100A Report, while nearly 6,000 filed the VETS–100 Report.[5] Accordingly, based on the number of contractors that filed annual reports in 2012, VETS estimates that 15,000 contractors would file the proposed VETS–4212 Report.

VETS assumes that contractors subject to the VETS–4212 reporting requirement would make adjustments to their human resources (HR) information systems to provide the data requested in the proposed VETS–4212 Report. VETS expects the burden hours and costs for making such adjustments will be greater for contractors that electronically file annual reports on veterans' employment than they will be for contractors that file paper versions of the annual report. In 2012, approximately 98% of contractors filed their annual reports electronically, and therefore VETS estimates that 98% or 14,700 contractors would electronically file the proposed VETS–4212 Report. VETS believes it will take a Software Developer about eight hours to make the one-time modification to the HR information system of a contractor that electronically files annual reports. Accordingly, the estimated burden for electronic filers to make the one-time change to their HR information systems is 117,600 hours (14,700 × 8). The estimated cost for the system modifications for electronic filers is based on data from the Occupational Outlook Handbook (OOH), which lists the 2010 median compensation of $43.52 per hour for a Software Developer. VETS estimates the one-time implementation salary costs for electronic filers would total $5,117,952.

With respect to contractors that file paper versions of the annual report on veterans' employment, VETS believes that it will take a Human Resources Specialist about two hours to make the one-time adjustment to the HR information system. The OOH lists $25.33 per hour as the 2010 median compensation for a Human Resources Specialist. The estimated burden for the 300 contractors that file paper versions of the annual report to make one-time adjustments to their HR information systems is 600 hours, and the estimated cost is $15,198. Thus, VETS estimates that the one-time implementation salary costs for all contractors that are required to file the proposed VETS–4212 Report would total $5,133,150.

- Contractors: 15,000 Federal Contractors
- Electronic Filing (98%): 14,700 contractors
- Paper filing (2%): 300 contractors
- Hours for software design: 8 Hrs. × 14,700 contractors = 117,600 implementation work hours
- Hours for HR specialist: 2 Hrs. × 300 contractors = 600 implementation work hours
- Salary for Software Designer: $43.52 per hour
- Salary for HR Specialist: $25.33 per hour
- Estimated One-time Salary Costs: $5,117,952 (electronic) + $15,198 (paper) = $5,133,150

Recurring Burden Hours and Other Cost Calculation

The proposed rule would require contractors with a contract of $100,000 or more to file the proposed VETS–4212 Report for each of their hiring locations. Table 1 shows 14,700 contractors submitted approximately 315,000 VETS–100A Reports in 2012.[6] Based on the number of VETS–100A Reports filed in 2012, VETS estimates contractors filing the proposed VETS–4212 Report on average will have 21 hiring locations. Consequently, VETS estimates that contractors subject to the VETS–4212 reporting requirement would file approximately 315,000 reports.

[5] The VETS–100 Reporting System shows 5,960 contractors filed VETS–100 Reports, and 14,714 contractors filed VETS–100A Reports in 2012. These numbers have been rounded for purposes of this analysis.

[6] The VETS–100 Reporting system shows contractors submitted 75,123 VETS–100 Reports and 314,825 VETS–100A Reports in 2012. For purposes of this analysis the numbers have been rounded.

TABLE 1—VETS–100 AND VETS–100A REPORTS FILED IN 2012

Submission from Federal contractors	VETS–100	VETS–100A	Totals
Total Respondents	6,000	14,700	.....
Total Annual Responses	75,000	315,000	390,000
• Electronic Response	73,500	308,700	382,200
• Paper Response	1,500	6,300	7,800

The proposed VETS–4212 Report requires fewer reportable items. The currently approved VETS–100A Report required under the existing part 61–300 regulations has 82 unique reportable items. The proposed VETS–4212 Report that would replace the currently approved VETS–100A Report has just 42 unique items—a reduction of nearly 50 percent. The reduction in the number of reportable items is expected to reduce the time it takes to complete and file the annual report on veterans' employment. VETS estimates that it would take contractors 20 minutes (a reduction of 10 minutes per report) to complete and electronically file the proposed VETS–4212 Report and 40 minutes (a reduction of 20 minutes per report) to complete a paper version of the proposed VETS–4212 Report.

As shown in Table 2, VETS estimates that it would take 107,100 burden hours annually to file electronic and paper versions of the VETS–4212 Report. VETS assumes Human Resources Specialists would prepare and file the reports, and based on their 2010 median compensation of $25.33 per hour, VETS estimates that the annual salary cost for filing the proposed VETS–4212 Report would total $2,712,843.

In addition, VETS recognizes that the 300 contractors that file paper versions of the proposed VETS–4212 Report will have operations and maintenance costs. VETS estimates that contractors on average will submit 21 VETS–4212 Reports and that it will cost approximately $.08 to print and/or copy each report. The estimated paper cost would be $504 (300 × 21 × $.08). In addition, VETS estimates an average mailing cost of $1.92 for each submission. The estimated cost for mailing would be $576 (300 × $1.92). Accordingly, Table 2 shows the total estimated annual operations and maintenance costs would be $1,080.

TABLE 2—ESTIMATED PAPERWORK BURDEN AND COSTS FOR FILING THE PROPOSED VETS–4212 REPORT

Submission from Federal contractors	Total VETS–4212 reporting
Total Respondents	15,000
Total Annual Responses (Avg. 21 Reports per Contractor)	(15,000 × 21) = 315,000
• Electronic Responses (98% of total responses)	308,700
• Paper Responses (2% of total responses)	6,300
Burden Hours:	
• Electronic 20 min	102,900
• Paper 40 min	4,200
Recurring Total Filing Burden Hours	107,100
• Filing Salary Equivalent Burden Cost ($25.33)	$2,712,843
• Annual Operations and Maintenance Cost	$1,080
Recurring Total Annual Costs	$2,713,923
Total One Time Implementation Burden Hours	118,200
Total One Time Implementation Salary Equivalent Burden Cost	$5,133,150

As Table 3 shows, the NPRM is expected to reduce burden hours from the currently approved 199,350 to 107,100 total burden hours (a decrease of 46 per cent). The reduction in burden hours comes from two sources: the proposed rescission of the part 61–250 regulations and elimination of the VETS–100 reporting requirement, and the reduction in the number of unique items the contractor would be required to complete on the proposed VETS–4212 Report. Over a ten-year period, the proposed regulation is expected to save Federal contractors about 804,300 burden hours and approximately $18,233,780 in salary equivalent burden costs.

TABLE 3—ESTIMATED BURDEN HOURS SAVINGS

Submission from Federal contractors	Currently approved ICR for OMB No. 1293–0005	VETS–4212 estimate	Estimated burden hours and cost savings
Burden Hours:			
• Annual Burden Calculation	199,350	(107,100)	92,250
• One-Time Implementation Burden Hours	0	(118,200)	(118,200)
First-Year Burden	199,350	(225,300)	(25,950)
Burden Savings After Year One	199,350	(107,100)	92,250
Ten-Year Burden Savings	.....	.....	804,300
Burden Costs:			
• Annual Salary Equivalent Burden Cost ($25.33)[7]	$5,049,536	($2,712,843)	$2,336,693
• One Time Implementation Salary Equivalent Burden Cost	0	($5,133,150)	($5,133,150)
First-year Salary Equivalent Burden Cost	$5,049,536	($7,845,993)	($2,796,457)
Salary Equivalent Costs Savings After Year One	$5,049,535	$2,712,843	$2,336,692

TABLE 3—ESTIMATED BURDEN HOURS SAVINGS—Continued

Submission from Federal contractors	Currently approved ICR for OMB No. 1293–0005	VETS–4212 estimate	Estimated burden hours and cost savings
Ten-Year Salary Equivalent Cost Savings			$18,233,780

Ongoing information collections must be reauthorized by OMB at least every three years. The annualized burden over the three-year life-span of this collection is summarized as follows:

Agency: DOL–VETS.

Title of Collection: Federal Contractor Veterans' Employment Report VETS–4212.

OMB Control Number: 1290–0005.

Affected Public: Private Sector—businesses or other for-profit and not-for-profit institutions; state, local, and tribal governments.

Total Estimated Number of Respondents: 15,000.

Total Estimated Number of Responses: 315,000.

Total Estimated Annual Burden Hours: 107,100.

Total Estimated Annualized Salary Equivalency: $4,423,893.

Total Estimated Other Cost Burden: $1,080.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. 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 the United States-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

For purposes of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, this proposed rule does not include any Federal mandate that may result in excess of $100 million in expenditures by state, local, and tribal governments in the aggregate or by the private sector.

Executive Order 13132 (Federalism)

VETS has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." This rule 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."

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This proposed rule does not have tribal implications under Executive Order 13175 that requires a tribal summary impact statement. The proposed rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Effects on Families

The undersigned hereby certifies that the proposed rule would not adversely affect the well-being of families, as discussed under section 654 of the Treasury and General Government Appropriations Act, 1999.

Executive Order 13045 (Protection of Children)

This proposed rule would have no environmental health risk or safety risk that may disproportionately affect children.

Environmental Impact Assessment

A review of this proposed rule in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* the regulations of the Council on Environmental Quality, 40 CFR 1500 et seq.; and DOL NEPA procedures, 29 CFR part 11, indicates the proposed rule would not have a significant impact on the quality of the human environment. Thus, there is no corresponding environmental assessment or an environmental impact statement.

Executive Order 13211 (Energy Supply)

This proposed rule is not subject to Executive Order 13211. It will not have a significant adverse effect on the supply, distribution, or use of energy.

Executive Order 12630 (Constitutionally Protected Property Rights)

This proposed rule is not subject to Executive Order 12630 because it does not involve implementation of a policy that has takings implications or that could impose limitations on private property use.

Executive Order 12988 (Civil Justice Reform Analysis)

This proposed rule was drafted and reviewed in accordance with Executive Order 12988 and will not unduly burden the Federal court system. The proposed rule was: (1) Reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct and to promote burden reduction.

List of Subjects in 41 CFR Parts 61–250 and 61–300

Government contracts, reporting and recordkeeping requirements, Veterans.

Signed at Washington, DC, this 11th day of February 2014.

Keith Kelly,

Assistant Secretary of Labor for Veterans' Employment and Training Service.

Accordingly, for the reasons stated in the preamble, under the authority of 38 U.S.C. 4212, VETS proposes to amend Title 41 of the Code of Federal Regulations, Chapter 61 as follows:

PART 61–250 [REMOVED]

■ 1. Remove part 61–250.

■ 2. Revise part 61–300 to read as follows:

PART 61–300—ANNUAL REPORT FROM FEDERAL CONTRACTORS

Sec.

[7] The Supporting Statement for currently approved VETS–100/100A Reports (OMB No. 1293–0005) contains estimated salary equivalent burden costs that are based on the $16.00 hourly compensation of an unspecified contractor employee. The $25.33 per hour median compensation for a Human Resources Specialist is used to calculate the salary equivalent burden costs in this analysis. In order to calculate the change in salary equivalent costs resulting from the proposed rule, VETS has used the $25.33 hourly compensation of the HR Specialist to calculate the salary equivalent burden cost for the currently approved burden hours.

Authority: 38 U.S.C. 4211 and 4212.

§ 61–300.1 What are the purpose and scope of this part?

(a) This part 61–300 implements 38 U.S.C. 4212(d). Each contractor or subcontractor who enters into a contract or subcontract in the amount of $100,000 or more with any department or agency of the United States for the procurement of personal property and non-personal services (including construction), and who is subject to 38 U.S.C. 4212(a), must annually report to the Secretary of Labor information on the number of employees in its workforce who belong to the categories of veterans protected under the Act, and the number of those employees who were hired during the period covered by the report. Each contractor or subcontractor must provide the required information on veterans' employment by filing the Federal Contractor Veterans' Employment Report VETS–4212 ("VETS–4212 Report"), in accordance with the requirements of § 61–300.11.

(b) Notwithstanding the regulations in this part, the regulations at 41 CFR part 60–300, administered by OFCCP continue to apply to contractors' and subcontractors' affirmative action obligations regarding protected veterans.

(c) Reporting requirements of this part regarding protected veterans will be deemed waived in those instances in which the Director of OFCCP has granted a waiver under 41 CFR 60–300.4(b)(1), or has concurred in the granting of a waiver under 41 CFR 60–300.4(b)(3), from compliance with all the terms of the equal opportunity clause for those establishments not involved in Government contract work. Where OFCCP grants only a partial waiver, compliance with these reporting requirements regarding protected veterans will be required.

(d) 41 CFR 60–300.42 and Appendix B to part 60–300 provide guidance concerning the affirmative action obligations of Federal contractors toward applicants for employment who are protected veterans.

§ 61–300.2 What definitions apply to this part?

(a) For the purposes of this part, the definitions for the terms "contract," "contractor", Government contract," "subcontract" and "subcontractor" are the same as those set forth in 41 CFR part 60–300.

(b) For purposes of this part:

(1) *Active duty wartime or campaign badge veteran* means a veteran who served on active duty in the U.S. military, ground, naval, or air service during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.

(2) *Armed Forces service medal veteran* means a veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209, 3 CFR, 1996 Comp., p. 159).

(3) *Disabled veteran* means:

(i) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs, or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

(4) *Electronic filing or "e-filing"* means filing the VETS–4212 Report via the VETS web-based filing system. E-filing also includes transmitting or delivering the VETS–4212 Report as an electronic data file. Instructions for electronically filing the VETS–4212 Report are found on VETS' Web site at: *http://www.dol.gov/vets/vets100filing.htm.*

(5) *Employee* means any individual on the payroll of an employer who is an employee for purposes of the employer's withholding of Social Security taxes except insurance sales agents who are considered to be employees for such purposes solely because of the provisions of 26 U.S.C. 3121(d)(3)(B) (the Internal Revenue Code). Leased employees are included in this definition. Leased employee means a permanent employee provided by an employment agency for a fee to an outside company for which the employment agency handles all personnel tasks including payroll, staffing, benefit payments and compliance reporting. The employment agency shall, therefore, include leased employees in its VETS–4212 Report. The term employee SHALL NOT include persons who are hired on a casual basis for a specified time, or for the duration of a specified job (for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employee's work at the site); persons temporarily employed in any industry other than construction, such as temporary office workers, mariners, stevedores, lumber yard workers, etc., who are hired through a hiring hall or other referral arrangement, through an employee contractor or agent, or by some individual hiring arrangement, or persons (except leased employees) on the payroll of an employment agency who are referred by such agency for work to be performed on the premises of another employer under that employer's direction and control.

(6) *Hiring location* (this definition is identical to *establishment* as defined by the instructions for completing Employer Information Report EEO–1, Standard Form 100 (EEO–1 Report)) means an economic unit which produces goods or services, such as a factory, office, store, or mine. In most instances the establishment is at a single physical location and is engaged in one, or predominantly one, type of economic activity. Units at different locations, even though engaged in the same kind of business operation, should be reported as separate establishments. For locations involving construction, transportation, communications, electric, gas, and sanitary services, oil and gas fields, and similar types of physically dispersed industrial activities, however, it is not necessary to list separately each individual site, project, field, line, etc., unless it is treated by the contractor as a separate legal entity. For these physically dispersed activities, list as establishments only those relatively permanent main or branch offices, terminals, stations, etc., which are either:

(i) Directly responsible for supervising such dispersed activities; or

(ii) The base from which personnel and equipment operate to carry out these activities. (Where these dispersed activities cross State lines, at least one such establishment should be listed for each State involved).

(7) *Job category* means any of the following: Officials and managers (Executive/Senior Level Officials and Managers and First/Mid-Level Officials and Managers), professionals, technicians, sales workers, administrative support workers, craft workers, operatives, laborers and helpers, and service workers, as required by the Employer Information

Report EEO–1, Standard Form 100 (EEO–1 Report), as follows:

(i) *Officials and managers* as a whole is to be divided into the following two subcategories: Executive/Senior Level Officials and Managers and First/Mid-Level Officials and Managers.

(A) *Executive/Senior Level Officials and Managers* means individuals, who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products and services, within the parameters approved by boards of directors of other governing bodies. Residing in the highest levels of organizations, these executives plan, direct, or coordinate activities with the support of subordinate executives and staff managers. They include, in larger organizations, those individuals within two reporting levels of the CEO, whose responsibilities require frequent interaction with the CEO. Examples of these kinds of managers are: Chief executive officers, chief operating officers, chief financial officers, line of business heads, presidents or executive vice presidents of functional areas or operating groups, chief information officers, chief human resources officers, chief marketing officers, chief legal officers, management directors and managing partners.

(B) *First/Mid Level Officials and Managers* means individuals who serve as managers, other than those who serve as Executive/Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations. These managers receive directions from Executive/Senior Level management and typically lead major business units. They implement policies, programs and directives of Executive/Senior Level management through subordinate managers and within the parameters set by Executives/Senior Level management. Examples of these kinds of managers are: Vice presidents and directors; group, regional or divisional controllers; treasurers; and human resources, information systems, marketing, and operations managers. The First/Mid Level Officials and Managers subcategory also includes those who report directly to middle managers. These individuals serve at functional, line of business segment or branch levels and are responsible for directing and executing the day-to-day operational objectives of enterprises/organizations, conveying the directions of higher level officials and managers to subordinate personnel and, in some instances, directly supervising the activities of exempt and non-exempt personnel. Examples of these kinds of managers are: First-line managers; team managers; unit managers; operations and production managers; branch managers; administrative services managers; purchasing and transportation managers; storage and distribution managers; call center or customer service managers; technical support managers; and brand or product managers.

(ii) *Professionals* means individuals in positions that require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications. Examples of these kinds of positions include: accountants and auditors; airplane pilots and flight engineers; architects; artists; chemists; computer programmers; designers; dieticians; editors; engineers; lawyers; librarians; mathematical scientists; natural scientists; registered nurses; physical scientists; physicians and surgeons; social scientists; teachers; and surveyors.

(iii) *Technicians* means individuals in positions that include activities requiring applied scientific skills, usually obtained by post-secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required. Examples of these types of positions include: drafters; emergency medical technicians; chemical technicians; and broadcast and sound engineering technicians.

(iv) *Sales workers* means individuals in positions including non-managerial activities that wholly and primarily involve direct sales. Examples of these types of positions include: advertising sales agents; insurance sales agents; real estate brokers and sales agents; wholesale sales representatives; securities, commodities, and financial services sales agents; telemarketers; demonstrators; retail salespersons; counter and rental clerks; and cashiers.

(v) *Administrative support workers* means individuals in positions involving non-managerial tasks providing administrative and support assistance, primarily in office settings. Examples of these types of positions include: office and administrative support workers; bookkeeping; accounting and auditing clerks; cargo and freight agents; dispatchers; couriers; data entry keyers; computer operators; shipping, receiving and traffic clerks; word processors and typists; proofreaders; desktop publishers; and general office clerks.

(vi) *Craft workers* means individuals in positions that include higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters (both construction and maintenance); glaziers; pipelayers, plumbers, pipefitters and steamfitters; plasterers; roofers; elevator installers; earth drillers; derrick operators; oil and gas rotary drill operators; and blasters and explosive workers. This category also includes occupations related to the installation, maintenance and part replacement of equipment, machines and tools, such as: automotive mechanics; aircraft mechanics; and electric and electronic equipment repairers. This category also includes some production occupations that are distinguished by the high degree of skill and precision required to perform them, based on clearly defined task specifications, such as: millwrights; etchers and engravers; tool and die makers; and pattern makers.

(vii) *Operatives* means individuals in intermediate skilled occupations and includes workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers; laundry and dry cleaning workers; photographic process workers; weaving machine operators; electrical and electronic equipment assemblers; semiconductor processors; testers, graders and sorters; bakers; and butchers and other meat, poultry and fish processing workers. This category also includes occupations of generally intermediate skill levels that are concerned with operating and controlling equipment to facilitate the movement of people or materials, such as: bridge and lock tenders; truck, bus or taxi drivers; industrial truck and tractor (forklift) operators; parking lot attendants; sailors; conveyor operators; and hand packers and packagers.

(viii) *Laborers and helpers* means individuals with more limited skills who require only brief training to perform tasks that require little or no independent judgment. Examples include: production and construction worker helpers; vehicle and equipment cleaners; laborers; freight, stock and material movers; service station attendants; construction laborers; refuse and recyclable materials collectors; septic tank servicers; and sewer pipe cleaners.

(ix) *Service workers* means individuals in positions that include food service, cleaning service, personal service, and protective service activities. Skill may be acquired through formal training, job-related training or direct experience. Examples of food service positions include: cooks; bartenders; and other food service workers. Examples of personal service positions include: medical assistants and other healthcare support positions; hairdressers; ushers; and transportation attendants. Examples of cleaning service positions include: cleaners; janitors; and porters. Examples of protective service positions include: transit and railroad police and fire fighters; guards; private detectives and investigators.

(8) *NAICS* means the North American Industrial Classification System.

(9) *OFCCP* means the Office of Federal Contract Compliance Programs, U.S. Department of Labor.

(10) *Protected veteran* means a veteran who is protected under the non-discrimination and affirmative action provisions of the Act; specifically, a veteran who may be classified as a "disabled veteran," "recently separated veteran," "active duty wartime or campaign badge veteran," or an "Armed Forces service medal veteran," as defined in this section.

(11) *Recently separated veteran* means a veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

(12) *States* means each of the several States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Wake Island, and the Trust Territories of the Pacific Islands.

(13) *VETS* means the Office of the Assistant Secretary for Veterans' Employment and Training Service, U.S. Department of Labor.

§ 61–300.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?

Each contractor or subcontractor described in § 61–300.1 must submit reports in accordance with the following reporting clause, which must be included in each of its covered government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract). Such clause is considered as an addition to the equal opportunity clause required by 41 CFR 60–300.5. The reporting requirements clause is as follows:

Employer Reports on Employment of Protected Veterans

(a) The contractor agrees to report at least annually, as required by the Secretary of Labor, on:

(1) The total number of employees in the workforce of such contractor, by job category and hiring location, and the total number of such employees, by job category and hiring location, who are protected veterans;

(2) The total number of new employees hired by the contractor during the period covered by the report, and of such employees, the number who are protected veterans; and

(3) The maximum number and minimum number of employees of such contractor at each hiring location during the period covered by the report.

(4) The term "protected veteran" refers to a veteran who may be classified as a "disabled veteran," recently separated veteran, "active duty wartime or campaign badge veteran," or an "Armed Forces service medal veteran," as defined in 41 CFR 61–300.2.

(b) The above items must be reported by completing the report entitled "Federal Contractor Veterans' Employment Report VETS–4212."

(c) VETS–4212 Reports must be filed no later than September 30 of each year following a calendar year in which a contractor or subcontractor held a covered contract or subcontract.

(d) The employment activity report required by paragraphs (a)(2) and (a)(3) of this clause must reflect total new hires and maximum and minimum number of employees during the 12-month period preceding the ending date that the contractor selects for the current employment report required by paragraph (a)(1) of this clause. Contractors may select an ending date:

(1) As of the end of any pay period during the period July 1 through August 31 of the year the report is due; or

(2) As of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO–1, Standard Form 100 (EEO–1 Report).

(e) The number of veterans reported according to paragraph (a) above must be based on data known to contractors and subcontractors when completing their VETS–4212 Reports. Contractors' and subcontractors' knowledge of veterans status may be obtained in a variety of ways, including, in response to an invitation to applicants to self-identify in accordance with 41 CFR 60–300.42, voluntary self-disclosures by employees who are protected veterans, or actual knowledge of an employee's veteran status by a contractor or subcontractor. Nothing in this paragraph (e) relieves a contractor from liability for discrimination under 38 U.S.C. 4212.

[End of Clause]

§ 61–300.11 When and how should Federal contractors and subcontractors file VETS–4212 Reports?

(a) The VETS–4212 Report must be used to report the information on veterans' employment required in paragraph (a) of the contract clause set forth in § 61–300.10. The VETS–4212 Report requires contractors and subcontractors to provide the total number of employees in their workforces by job category and hiring location; the total number of such employees, by job category and hiring location, who are protected veterans; the total number of new hires during the period covered by the report; the total number of new hires during the period covered by the report who are protected veterans; and the maximum and minimum number of employees of such contractor or subcontractor during the period covered by the report. Contractors and subcontractors must complete a VETS–4212 Report for each hiring location in the manner described in the instructions published on the VETS Web site and included in the paper version of the VETS–4212 Report.

(b) VETS–4212 Reports must be filed no later than September 30 of each year following a calendar year in which a contractor or subcontractor held a contract or subcontract.

(c)(1) *Electronic filing.* The preferred method for filing VETS–4212 Reports is electronically through the VETS web-based filing system. Instructions for e-filing the VETS–4212 Report are found on the VETS Web site at: *http://www.dol.gov/vets/vets100filing.htm.*

(i) *Single hiring location.* Contractors and subcontractors doing business at one hiring location may complete and submit a single VETS–4212 Report using the web-based filing system.

(ii) *Multiple hiring locations.* Contractors and subcontractors doing business at more than 10 locations must submit their VETS–4212 Reports in the form of an electronic data file that complies with current Department of Labor specifications for the format of these records, and any other specifications established by the Department for the applicable reporting year. Contractors and subcontractors with fewer than 10 hiring locations are strongly encouraged to submit their VETS–4212 Reports in the form of an electronic data file, but are not required to do so. In these cases, state consolidated reports count as one location each. Contractors and subcontractors may submit VETS–4212 Reports in the form of electronic data files through the web-based filing system. Electronic data files also may be transmitted electronically as an email

attachment (if they do not exceed the size stated in the specifications), or submitted on compact discs or other electronic storage media.

(2) *Alternative filing methods.* (i) The VETS–4212 Report may also be filed in paper format. Contractors and subcontractors may download a paper version of the VETS–4212 Report from the VETS Web site or send a written request for the paper version of the VETS–4212 Report to: Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–1325, Washington, DC 20210, Attn: VETS–4212 Report Form Request.

(ii) VETS–4212 Reports in paper format or electronic data files on compact discs or other electronic storage media may be delivered by U.S. mail or courier delivery service to the addresses set forth in the instructions for completing the report. Paper copies of the VETS–4212 Reports and electronic data files (if they do not exceed the size stated in the specifications) also may be sent as email attachments to the address indicated in the instructions.

§ 61–300.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?

During the course of a compliance evaluation, OFCCP may determine whether a contractor or subcontractor has submitted its VETS–4212 Report(s) as required by this part.

§ 61–300.99 What is the OMB control number for this part?

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and its implementing regulations at 5 CFR part 1320, the Office of Management and Budget has assigned Control No. 1293–0005 to the information collection requirements of this part.

[FR Doc. 2014–03503 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 298

[Docket Number MARAD–2014–0011]

Proposed Policy: "Other Relevant Criteria" for Consideration When Evaluating the Economic Soundness of Applications Under the Title XI Maritime Guaranteed Loan Program

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Proposed policy.

SUMMARY: This document provides interested parties with the opportunity to comment on the proposed policy regarding the factors the Maritime Administration ("MARAD") will consider in its review of applications for the Title XI Maritime Guaranteed Loan Program ("Title XI"). MARAD's proposed policy is intended to further promote the modernization of the U.S. Merchant Marine and U.S. shipyards through the construction or reconstruction (to include repowering) of vessels.

DATES: Comments must be received on or before March 26, 2014. MARAD will consider comments filed after this date to the maximum extent practicable.

ADDRESSES: Comments identified by Department of Transportation ("DOT") Docket Number MARAD–2014–0011 may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search MARAD–2014–0011 and follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590. If you would like to know that your comments reached the facility, please enclose a stamped, self-addressed postcard or envelope.
- *Hand Delivery/Courier:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

Note: If you fax, mail or hand deliver your input we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission. If you submit your inputs by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

Special Instructions: All submissions received must include the agency name and docket number. All comments received will be posted without change to the docket at *www.regulations.gov*, including any personal information provided. For detailed instructions on submitting comments and additional information on the process, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Owen Doherty, Acting Administrator for Business and Finance Development, Maritime Administration, Telephone: 202–366–1883, Email: *owen.doherty@dot.gov.* If you have questions on viewing the Docket, call Barbara Hairston, Acting Program Manager, Docket Operations, telephone: 202–366–9826. Additional background information may be found at *www.MARAD.dot.gov.*

SUPPLEMENTARY INFORMATION: The primary purpose of Title XI is to promote the growth and modernization of the U.S. Merchant Marine and U.S. shipyards. Title XI promotes such growth and modernization by providing loan guarantees to sustain vessel construction and repair capacity, create jobs, support development and utilization of emerging technologies, as well as encouraging private investment in the maritime industry. The legislative history of Title XI reflects the evolution of the program over its 78 year history to respond to these contemporary issues and national priorities.[1] Additions over time have included job creation, new vessel safety measures, small shipyard growth, environmental technologies, increased efficiency in the maritime industry through modernization and national defense.

Under 46 U.S.C. 53702(a), Title XI is a discretionary program. Chapter 537 of Title 46 of the United States Code and part 298 of title 46 of the Code of Federal Regulations (CFR) detail the

[1] For example, the Ship Financing Act of 1972 demonstrated Congress' focus on new environmental technologies, among other things, by making pollution treatment, abatement, or control vessels eligible for Title XI guarantees, *See* Public Law 92–507, section 1, 86 Stat. 909, as amended, now codified at 46 U.S.C. 53701(14)(K). In the 1990s, Congress amended Title XI to redevelop the U.S. maritime industrial base and rebuild the nation's shipyards. *See* National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, section 1352, 107 Stat. 1812. In recent years, Title XI's focus on national security has grown with priorities focused on national defense tank vessels and naval auxiliary vessels. *See* National Defense Authorization Act for Fiscal Year 2004, Public Law 108–36, section 3544, 117 Stat. 1392, as amended, now codified at 46 U.S.C. 53706(c)(1).

factors MARAD must consider in processing Title XI loan guarantee applications. These authorities require MARAD to consider economic soundness, project feasibility and specifically enumerated priorities for processing when evaluating whether to approve or deny a Title XI application.

For the required economic soundness determination, 46 U.S.C. 53708(a) provides six mandatory factors to consider when evaluating economic soundness.[2] The accompanying regulation 46 CFR 298.14(b) sets forth "[b]asic feasibility factors" but notes that "all relevant factors" are required to be considered prior to a determination of economic soundness.[3]

Both 46 U.S.C. 53708(a)(5) and 46 CFR 298.14(b)(6) expressly allow MARAD to consider "other relevant criteria" in addition to those enumerated in the statute and regulation when making findings of economic soundness, provided it is reasonable in doing so. Although not an exhaustive list, examples of "other relevant criteria" MARAD may consider, as appropriate, when evaluating economic soundness include, but are not limited to, availability of funding, sensitivity and concentration of the agency loan guarantee portfolio, utilization of America's Marine Highways and designated corridors, and synergy with the DOT Strategic Plan; as well as any factors contained within 46 CFR chapter 2, subpart D with a bearing on the economic soundness of a Title XI loan guarantee application. Examples of such factors from subpart D include, but are not limited to, guarantees for less than the normal term for that class of vessel, degrees of risk involved with different applications and influence on existing Title XI guarantees.

In addition to the factors enumerated above, MARAD also proposes to consider various environmental initiatives that are likely to increase efficiency and lead to future cost savings as "other relevant criteria" in its evaluation of Title XI loan guarantee applications. The consideration of such initiatives is consistent not only with previous Congressional priorities, but also with the programmatic imperative to remain current with emerging standards, trends and critical needs. Some of these initiatives may include alternative fuel system designs, fuel cells, hybrid propulsion systems, air emissions reduction technologies, ballast water treatment technologies, or other environmentally-friendly designs.

Today, it is feasible to construct and/or repower vessels to incorporate alternative energy technologies and fuels,[4] environmentally-friendly designs and other technologies that improve the environmental sustainability of vessel operations. The demand for environmentally friendly designs, fuels and technologies is growing rapidly throughout the maritime industry because, among other things, they meet new air emissions and other discharge standards, and also present the potential for greater efficiencies and cost savings. MARAD seeks to promote, through Title XI, projects that provide more environmentally sustainable marine transportation. Consideration of these factors as "other relevant criteria" within an application's economic soundness determination would complement the other such criteria that MARAD already considers in the evaluation of an application's economic soundness, which include but are not limited to the factors identified above. MARAD notes, in particular, that many of the economic benefits of environmentally friendly designs, fuels and technologies take the form of public benefits that cannot be captured by a vessel's owner and operator in the form of freight rates or passenger fees, but which may be valuable to society because of improved human health from air and water quality. Economists and environmental experts can often quantify these benefits in monetary terms or treat them qualitatively. Achieving these benefits is consistent with the DOT Strategic Plan (under the goal of environmental sustainability) and other Federal, State and local objectives. As such, MARAD intends to include as a contributing factor to Federal decisions to award Title XI loan guarantees whether approval will help a vessel meet or exceed environmental standards. MARAD will consider the comments received on this proposed policy in formulating a final notice of policy.

Public Participation

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number in your comments. MARAD encourages you to provide concise comments. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**.

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE., Washington, DC 20590. When you send comments containing information claimed to be confidential information, you should include a cover letter setting forth with specificity the basis for any such claim.

MARAD will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent practicable, MARAD will also consider comments received after that date. If a comment is received too late for MARAD to consider in developing a final policy, MARAD will consider that comment as an informal suggestion for future guidance.

For access to the docket to read background documents, or to submit or read comments received, go to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays. To review documents, read comments or to submit comments, the docket is also available online at *http://www.regulations.gov.*, keyword search MARAD–2014–0011.

Please note that even after the comment period has closed, MARAD will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, MARAD recommends that you periodically check the Docket for new material.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act system of records notice for the Federal Docket Management System (FDMS) in the **Federal Register** published on January 17, 2008, (73 FR 3316) at *http://*

[2] See Reference 46 U.S.C. 53708(a)

[3] See Reference 46 CFR 298.14(b)

[4] MARAD defines alternative energy and fuels as energy derived from non-traditional sources (including but not limited to liquefied or compressed natural gas, bio-fuels, solar and wind).

edocket.access.gpo.gov/2008/pdf/E8-785.pdf.

Authority: 46 U.S.C. 53708

Dated: February 18, 2014.

By Order of the Maritime Administrator.

Christine S. Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. 2014–03729 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2014–0008; 4500030113]

RIN 1018–BA32

Endangered and Threatened Wildlife and Plants; Special Rule for the Georgetown Salamander

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose a special rule under the authority of section 4(d) of the Endangered Species Act of 1973, as amended (Act), for the Georgetown salamander (*Eurycea naufragia*), a species that occurs in Texas. The special rule contains measures that are necessary and advisable to provide for the conservation of the Georgetown salamander.

DATES: We will accept comments received or postmarked on or before April 25, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Document availability:* You may obtain a copy of the City of Georgetown Ordinance 2013–59 described in this proposed rule from the Federal eRulemaking portal, *http://www.regulations.gov*, at Docket No. FWS–R2–ES–2014–0008.

Comment submission: You may submit comments on the proposed rule by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter FWS–R2–ES–2014–0008, which is the docket number for this rulemaking. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2014–0008; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by one of the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd, Suite 200, Austin, TX 78758; by telephone 512–490–0057; or by facsimile 512–490–0974. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we request comments or suggestions on this proposed rule. We particularly seek comments concerning:

(1) Whether the measures outlined in this proposed 4(d) special rule are necessary and advisable for the conservation and management of the Georgetown salamander;

(2) Additional provisions the Service may wish to consider for a 4(d) special rule in order to conserve, recover, and manage the Georgetown salamander.

We will consider all comments and information received during our preparation of a final 4(d) special rule. Accordingly, the final rule may differ from this proposal.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On August 22, 2012, we published a proposed rule under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), to list as endangered and designate critical habitat for the Georgetown salamander and three other salamander species (77 FR 50768). Elsewhere in today's **Federal Register**, we published a final determination to list the Georgetown salamander and the Salado salamander as threatened species. Please see the final listing determination for additional information concerning previous Federal actions for the Georgetown salamander.

Background

The Georgetown salamander is entirely aquatic and depends on water from the Edwards Aquifer in sufficient quantity and quality to meet its life-history requirements for survival, growth, and reproduction. Degradation of habitat, in the form of reduced water quality and quantity and disturbance of spring sites, is the main threat to this species. For more information on the Georgetown salamander and its habitat, please refer to the final listing determination published elsewhere in today's **Federal Register**, available online at *http://www.regulations.gov* (at Docket Number FWS–R2–ES–2012–0035) or from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

The Act does not specify particular prohibitions, or exceptions to those prohibitions, for threatened species. Instead, under section 4(d) of the Act, the Secretary of the Interior has the discretion to issue such regulations as [s]he deems necessary and advisable to provide for the conservation of such species. The Secretary also has the discretion to prohibit by regulation with respect to any threatened species, any act prohibited under section 9(a)(1) of the Act. Exercising this discretion, the Service developed general prohibitions (50 CFR 17.31) and exceptions to those prohibitions (50 CFR 17.32) under the Act that apply to most threatened species. Alternately, for other threatened species, the Service may develop specific prohibitions and exceptions that are tailored to the specific conservation needs of the species. In such cases, some of the prohibitions and authorizations under

50 CFR 17.31 and 17.32 may be appropriate for the species and incorporated into a special rule under section 4(d) of the Act. However, these rules, known as 4(d) rules or special rules, will also include provisions that are tailored to the specific conservation needs of the threatened species and may be more or less restrictive than the general provisions at 50 CFR 17.31.

Provisions of the Proposed 4(d) Special Rule for the Georgetown Salamander

Under section 4(d) of the Act, the Secretary may publish a special rule that modifies the standard protections for threatened species with special measures tailored to the conservation of the species that are determined to be necessary and advisable. Under this proposed 4(d) special rule, the Service proposes that all of the prohibitions under 50 CFR 17.31 and 17.32 will apply to the Georgetown salamander, except as noted below. The proposed 4(d) special rule will not remove or alter in any way the consultation requirements under section 7 of the Act.

On December 20, 2013, the City Council of Georgetown, Texas, approved the Edwards Aquifer Recharge Zone Water Quality Ordinance (Ordinance No. 2013–59). The Service proposes that take incidental to activities that are conducted consistent with the conservation measures contained in the ordinance will not be prohibited under the Act.

The purpose of this ordinance is to reduce the principal threats to the Georgetown salamander within the City of Georgetown and its extraterritorial jurisdiction through the protection of water quality near occupied sites known at the time the ordinance was approved, enhancement of water quality protection throughout the Edwards Aquifer recharge zone, and establishment of protective buffers around all springs and streams. Specifically, the primary conservation measures that will be implemented within the Edwards Aquifer recharge zone under Ordinance No. 2013–59 include:

(1) A requirement for geologic assessments to identify all springs and streams on a development site;

(2) The establishment of a no-disturbance zone that extends 262 feet (ft) (80 meters (m)) upstream and downstream from sites occupied by Georgetown salamanders;

(3) The establishment of a minimal-disturbance zone that extends 984 ft (300 m) around all occupied sites within which development is limited to Residential Estate and Residential Low-Density District as defined in the City of Georgetown's Unified Development Code;

(4) The establishment of a spring buffer that extends 164 ft (50 m) around unoccupied springs;

(5) The establishment of stream buffers for streams that drain more than 64 acres (ac) (26 hectares (ha)); and

(6) A requirement that permanent structural water quality controls (i.e., best management practices (BMPs)) remove 85 percent of total suspended solids for the entire project.

Additionally, an Adaptive Management Working Group has been established that is specifically charged with reviewing salamander monitoring data and new research over time and recommending improvements to the ordinance that may be necessary to ensure that it achieves its stated purposes. This Adaptive Management Working Group, which includes representatives of the Service and Texas Parks and Wildlife Department, will also review and make recommendations on the approval of any variances to the Ordinance as well as the Georgetown salamander's status.

This provision of the proposed 4(d) special rule will promote conservation of the Georgetown salamander by encouraging activities to proceed in ways that meet the needs of the City of Georgetown and its constituents while simultaneously conserving suitable habitat for the Georgetown salamander. The ordinance is expected to reduce the threat of habitat degradation by reducing impacts to water quality and quantity and limiting disturbance of spring sites, and thereby will contribute to the conservation of the Georgetown salamander.

Nothing in this proposed 4(d) special rule changes in any way the recovery planning provisions of section 4(f) and consultation requirements under section 7 of the Act or the ability of the Service to enter into partnerships for the management and protection of the Georgetown salamander.

Proposed Determination

Section 4(d) of the Act states that "the Secretary shall issue such regulations as [s]he deems necessary and advisable to provide for the conservation" of species listed as a threatened species. Conservation is defined in the Act to mean "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the Act] are no longer necessary." Additionally, section 4(d) states that the Secretary "may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1)."

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, the Secretary may find that it is necessary and advisable not to include a taking prohibition, or to include a limited taking prohibition. See *Alsea Valley Alliance* v. *Lautenbacher*, 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service*, and 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002). In addition, as affirmed in *State of Louisiana* v. *Verity*, 853 F.2d 322 (5th Cir. 1988), the rule need not address all the threats to the species. As noted by Congress when the Act was initially enacted, "once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. [S]he may, for example, permit taking, but not importation of such species," or [s]he may choose to forbid both taking and importation but allow the transportation of such species, as long as the measures will "serve to conserve, protect, or restore the species concerned in accordance with the purposes of the Act" (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Section 9 prohibitions make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as an endangered species, without written authorization. It also is illegal under section 9(a)(1) of the Act to possess, sell, deliver, carry, transport, or ship any such wildlife that is taken illegally. Prohibited actions consistent with section 9 of the Act are outlined for threatened species in 50 CFR 17.31(a) and (b). This proposed 4(d) special rule proposes that all prohibitions in 50 CFR 17.31(a) and (b) will apply to the Georgetown salamander, except activities that are conducted consistent with the conservation measures contained in the City of Georgetown Ordinance 2013–59. Based on the rationale explained above, the provisions included in this proposed 4(d) special rule are expected to contribute to the conservation of the Georgetown salamander and are therefore necessary and advisable to provide for the conservation of the Georgetown salamander.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. We will send peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the reopening of the public comment period, on our use and interpretation of the science used in developing our proposed 4(d) special rule.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA 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

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)), whenever an agency must 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 the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). Based on the information that is available to us at this time, we certify that this regulation will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

Elsewhere in today's **Federal Register**, we published the final determination to list the Georgetown salamander as a threatened species. As of the effective date of that final determination, the Georgetown salamander will be covered by the full protections of the Endangered Species Act, including the full section 9 prohibitions that make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as an endangered species, without written authorization. It also is illegal under section 9(a)(1) of the Act to possess, sell, deliver, carry, transport, or ship any such wildlife that is taken illegally. Prohibited actions consistent with section 9 of the Act are outlined for threatened species in 50 CFR 17.31(a) and (b). This proposed 4(d) special rule proposes that all prohibitions in 50 CFR 17.31(a) and (b) will apply to the Georgetown salamander, except activities that are conducted consistent with the conservation measures contained in the City of Georgetown Ordinance 2013–59, which would result in a less restrictive regulation under the Endangered Species Act, as it pertains to the Georgetown salamander, than would otherwise exist. For the above reasons, we certify that if promulgated, the proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we make the following findings:

(a) This proposed rule would 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 [T]ribal 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 [T]ribal 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; AFDC 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."

(b) This proposed 4(d) special rule proposes that all prohibitions in 50 CFR 17.31(a) and (b) will apply to the Georgetown salamander, except activities that are conducted consistent with the conservation measures contained in the City of Georgetown Ordinance 2013–59, which would result in a less restrictive regulation under the Endangered Species Act, as it pertains to the Georgetown salamander, than would otherwise exist. As a result, we do not believe that this rule would significantly or uniquely affect small governments. Therefore, a Small Government Agency Plan is not required.

Takings

In accordance with Executive Order 12630, this proposed rule would not have significant takings implications. We have determined that the rule has no potential takings of private property implications as defined by this Executive Order because this proposed

special rule would result in a less-restrictive regulation under the Endangered Species Act than would otherwise exist. A takings implication assessment is not required.

Federalism

In accordance with Executive Order 13132, this proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. This proposed rule would not have substantial direct effects on the State, on the relationship between the Federal Government and the State, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Energy Supply, Distribution or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking actions that significantly affect energy supply, distribution, and use. For reasons discussed within this proposed rule, we believe that the rule would not have any effect on energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must: (a) Be logically organized; (b) use the active voice to address readers directly; (c) use clear language rather than jargon; (d) be divided into short sections and sentences; and (e) use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the proposed rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.)

This proposed rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This proposed 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.)

We intend to undertake an environmental assessment of this action under the authority of the National Environmental Policy Act of 1969 (NEPA). We will notify the public of the availability of the draft environmental assessment for this proposal when it is finished.

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 known tribal lands within the range of the Georgetown salamander.

Authors

The primary authors of this proposed rule are the staff members of the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to 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 § 17.43 by adding paragraph (e) to read as follows:

§ 17.43 Special rules—amphibians.

* * * * *

(e) Georgetown salamander (*Eurycea naufragia*).

(1) *Prohibitions.* Except as noted in paragraph (e)(2) of this section, all prohibitions and provisions of §§ 17.31 and 17.32 apply to the Georgetown salamander.

(2) *Exemptions from prohibitions.* Incidental take of the Georgetown salamander will not be considered a violation of section 9 of the Act if the take occurs on privately owned, State, or county land from activities that are conducted consistent with the conservation measures contained in the City of Georgetown, Texas, Ordinance 2013–59.

Dated: February 14, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–03719 Filed 2–21–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 29

[Docket No. FWS–HQ–NWRS–2012–0086; FXRS12610900000–134–FF09R200000]

RIN 1018–AX36

Non-Federal Oil and Gas Development Within the National Wildlife Refuge System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking; notice of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is seeking comments to assist us in developing a proposed rule on managing activities associated with non-Federal oil and gas development on

lands and waters of the National Wildlife Refuge System (Refuge System). Non-Federal oil and gas development refers to oil and gas activities associated with any private, state, or tribally owned mineral interest where the surface estate is administered by the Service as part of the Refuge System. The proposed rule will clarify and expand existing regulations. We seek public input on how to manage non-Federal oil and gas operations on Refuge System lands to avoid or minimize, to the greatest possible extent, adverse effects on natural and cultural resources, wildlife-dependent recreation, and refuge infrastructure and management; ensure a consistent and effective regulatory environment for oil and gas operators; and protect public health and safety. The Service lacks comprehensive regulations to manage non-Federal oil and gas operations on the Refuge System, which has led to unnecessary adverse impacts on refuge resources, as well as an uncertain and inconsistent regulatory environment for oil and gas operators on refuges.

This notice of intent starts the scoping process in compliance with the National Environmental Policy Act (NEPA) and its implementing regulations. Currently, we are planning for the programmatic environmental impact statement (PEIS) to focus on the national effects of the rulemaking, realizing that further environmental analysis of the more localized effects may be required with implementation of the rule. As part of the scoping process, the Service seeks public comment on the scope of the proposed rule; the NEPA alternatives to be considered; and the physical, biological, social, and economic effects that should be analyzed in the draft PEIS.

DATES: Submit comments on or before April 25, 2014.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for FWS–HQ–NWRS–2012–0086, which is the docket number for this rulemaking. You may submit a comment by clicking on "Comment Now!" If your comments will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.
- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–HQ–NWRS–2012–0086; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Participation under **SUPPLEMENTARY INFORMATION** for more information).

FOR FURTHER INFORMATION CONTACT: Scott Covington, (703) 358–2427.

SUPPLEMENTARY INFORMATION:

Background

In many refuges of the Refuge System, the Federal Government does not own the subsurface mineral rights, and, subject to State and Federal law, the mineral rights owners have the legal authority to develop oil and gas resources. Additionally, some refuges had existing oil and gas wells and associated infrastructure and pipelines when acquired by the Service. Based on our best available data as of 2012, 103 refuges and 4 wetland management districts have oil and gas operations (oil and gas wells, injection wells for enhanced oil recovery and produced water disposal, and pipelines), including more than 5,000 wells (oil, gas, injection) and almost 1,700 actively producing oil and gas wells (these estimates include wells in both Federal and non-Federal minerals). For purposes of this rulemaking, non-Federal minerals are considered the rights to develop oil and gas resources held by private, tribal, state or other entities. With Federal minerals, the development rights are held by the U.S. government. The smaller proportion of these wells is in Federal minerals, which are administered by the Bureau of Land Management (BLM) primarily under 43 CFR 3101.5. Some Federal regulations do apply to development of non-Federal minerals (e.g., 40 CFR 60, 61, and 63). However, the Service lacks comprehensive regulations to manage non-Federal oil and gas operations on the Refuge System, which has led to unnecessary adverse impacts on refuge resources, as well as an uncertain and inconsistent regulatory environment for oil and gas operators on refuges. The proposed rule will clarify and expand existing regulations at 50 CFR 29.32.

In 2003, the Government Accountability Office (GAO) issued a report (GAO–03–517) to Congress highlighting the opportunities to improve management and oversight of oil and gas operations on the Refuge System. One of the main recommendations of the report was to clarify the Service's permitting authority of non-Federal oil and gas operations through regulations. Several other land management agencies have regulations that cover oil and gas development, including the Department of the Interior's National Park Service (NPS) and BLM, and the U.S. Department of Agriculture's Forest Service (FS). An update by GAO in 2007 (GAO–07–829R) followed the 2003 report reasserting the recommendation that the Service take the necessary steps to apply a consistent and reasonable set of regulatory and management controls over all oil and gas activities occurring on the Refuge System to protect the public's surface interests. We believe that rulemaking is necessary for the Service to create a consistent and reasonable set of regulatory management controls for non-Federal oil and gas operations on the Refuge System. This request for comments and ideas on the rulemaking will improve the process.

The legal authority for the Service to promulgate regulations is derived from the Property Clause (art. IV, section 3, cl. 2) and the Commerce Clause (art. I, Section 8, cl. 3) of the United States Constitution and from various statutes enacted by Congress for the administration of the Refuge System. The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), states that the mission of the Refuge System is to "administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans" and grants authority to the Service to establish policies and regulations for the administration and management of the Refuge System.

The Service is not currently proposing any specific approach for managing non-Federal oil and gas operations; accordingly, no regulatory findings are associated with this advance notice of proposed rulemaking. Comments received will help the Service determine the scope of any future rulemaking. Lastly, the Service's sister agency, the National Park Service, in 2009 issued an ANPR on this issue for their Park Units, 74 FR 61596 (November 25, 2009). If commenters wish to review the comments the Park Service received, a copy of its analysis of received comments can be obtained at *http://*

www.nature.nps.gov/geology/oil_and_gas/documents/2011-01-11%20ANPR_Comment_Analysis_Report.pdf.

Information Requested

The Service is interested in ideas from the public on ways we can improve existing management and oversight of non-Federal oil and gas operations. In addition, we request your help in identifying the significant issues and NEPA alternatives that we should consider in determining the scope of the PEIS for this rulemaking initiative. The Service intends to use input from the public to help us develop the proposed rule and prepare the draft PEIS. After receiving public comments and ideas, we will publish the proposed rule and notice of availability of the draft PEIS in the **Federal Register** for public review and comment. In particular, the Service encourages the public to provide comments and suggestions on the management and oversight issues described in the body of this notice. When commenting, please indicate which of the listed issues your comments address and to which question you are responding. If your comments cover issues outside of those listed, please identify them as "other."

The Service also recognizes its government-to-government relationship with federally recognized Native American Tribes and seeks their comments in this notice. Tribal representatives may submit comments through the process described below, which will include those comments in the public record. Alternatively, tribal representatives may contact Scott Covington at (703) 358–2427 for additional information or to initiate government-to-government consultation.

Issue 1: Plans of Operations and Special Use Permits

The Service requires entities, such as people, organizations, or companies, to get a Special Use Permit for any refuge use not generally open to the public. The permitting process allows the Service to ensure that refuge resources, as well as public health and safety, are protected to the greatest extent practicable before allowing the use on a refuge. In their existing regulations, the NPS and FS require that oil and gas development operators file a proposed plan of operations or operating plan and acquire a permit for use of the Federal surface estate. Operations encompass all activities associated with oil and gas, and include, but are not limited to: Reconnaissance to gather natural and cultural resources information; line-of-sight surveying and staking; geophysical exploration; exploratory drilling; production (site selection, well pad development, drilling, stimulation, and production), gathering, storage, processing, and transport of petroleum products; inspection, monitoring, and maintenance of equipment; well "work-over" activity; construction, maintenance, and use of pipelines; well plugging and abandonment; reclamation of the surface; and construction or use of roads, or other means of access or transportation, on, across, or through federally owned or controlled lands or waters. The plan of operations includes reasonable operating standards with which an operator should comply in conducting all phases of oil and gas operations, as well as any other necessary requirements for the operator to meet to ensure compliance with Federal and State law. The Service believes that requiring a plan of operations, followed by issuance of a special use permit once the plan is approved, is the most effective way to increase oversight and management of non-Federal oil and gas operations on the Refuge System.

Questions:

a. Should NPS and/or FS requirements serve as a model for managing oil and gas operations on Refuge System lands? If so, should the FWS take special note of specific aspects of either set of requirements in crafting its own regulations?

b. Do you have recommendations for alternatives to the processes described above that would allow for effective oversight and management of non-Federal oil and gas operations on the Refuge System? What are the benefits and costs of suggested alternatives?

c. Do you know of ways that the Service could implement an efficient and effective permitting process similar to that described above or recommended in the previous question, that reduces the burden of compliance for both operators and refuge staff?

Issue 2: Operating Standards

One of the major goals of the Service in this proposed rulemaking is to ensure that operators conduct their operations in a way that minimizes impacts to natural and cultural resources when operating on a refuge, such as locating operations away from sensitive habitats for endangered and threatened species, other priority wildlife resources, cultural resources, watercourses, visitor centers, public use areas such as trails and wildlife viewing areas, and administrative structures and facilities. The Service is aware that various agencies and industry groups have developed standards (e.g., American Petroleum Institute, Bureau of Land Management Gold Book, State operating standards, EPA's Natural Gas STAR program and New Source Performance Standards for VOC emissions) that, if the Service adopts as part of the rule, may reduce the effects that non-Federal oil and gas operations on refuges may have on refuge resources. The Service may adapt the standard to meet requirements identified in the Refuge Administration Act. As an alternative, because operating standards may change based on the geological formation, habitat, new technology, and other factors, we could leave some flexibility in the proposed rule by not incorporating particular operating standards. Instead, we could provide criteria that operators could address in their plan of operations in what they believe to be the best technical and management practices.

Questions:

a. Do you have recommendations for how the Service can best ensure that operators are conducting operations under effective, enforceable operating standards in our proposed rule?

b. How can the Service best verify that operators are complying with applicable standards?

c. How can the Service best ensure that the standards selected are effective and enforceable? Please provide examples with data.

d. Do you have recommendations for the Service in developing a proposed rule that can adapt to technological advances in oil and gas development?

e. What criteria could be used as targets in plans of operation using best technical and management practices, and how would compliance be assessed?

Issue 3: Financial Assurances

The Refuge System has sustained significant damages to refuge resources from leaks and spills, inadequate plugging, abandonment and reclamation. The Service must ensure that taxpayers do not incur the costs of restoring refuge resources from irresponsible non-Federal oil and gas operations. In their regulations, the NPS requires that an operator file a performance bond or other acceptable method of financial assurance for all types and phases of non-Federal oil and gas operations. The objective of requiring a bond is to ensure that if an operator becomes insolvent or defaults on his/her obligations under an approved plan of operations, adequate funds will be available to the agency to carry out the plugging and reclamation requirements. The FS regulations give the Authorization Officer the discretion

to require a performance bond; however, justification for the bond should be documented in the administrative record. The bond ensures that adequate funds will be available to restore the site, remove equipment and contaminated soil, and revegetate the area.

Questions:

a. Should the FWS simply adopt the financial assurance instruments and process used by one of our sister agencies (e.g., performance bonds, irrevocable letters of credit, and cash)? If so, please describe the advantages or disadvantages of the different systems with a recommended model.

b. Are there alternatives to the existing financial assurance instruments used by our sister agencies (e.g., performance bonds, irrevocable letters of credit, and cash) that will protect the taxpayer if refuge resources are damaged by non-Federal oil and gas operations on lands and waters of the Refuge System?

c. If so, please describe the advantages or disadvantages of one type of instrument over another, and how it would be designed.

d. What is the best and most efficient way to ensure that financial assurances are maintained when ownership of the operation is transferred or sold?

Issue 4: Access Fees

Operators often need to cross Federal or private lands where they have no preexisting rights to do so. Operators must obtain permission from the Service for such access to Refuge System lands (50 CFR 29.21). The NPS, FS, and BLM, as well as (in most cases) adjacent private land owners, charge fees for this access. The oil and gas industry generally recognizes such fees today as a cost of doing business. The FWS, as with other surface owners in split-estate situations, generally has a responsibility to provide reasonable access to oil and gas operators wanting to access their non-Federally owned subsurface estate. However, we also have clear responsibilities to protect and maintain the surface values for which we manage these lands. As a result, the Service wants to encourage operators to access their oil and gas operations from existing roads that the Service administers, and at a time, place, and manner that protects refuge resources to the maximum extent practicable.

Questions:

a. What is a fair and reasonable method for the Service to calculate fees for the privilege of access across federally owned lands?

b. How could the Service establish incentives for operators to use existing roads or limit access to protect refuge resources in the proposed rulemaking?

Issue 5: Noncompliance

To ensure protection of refuge resources and public health and safety, the Service will need to define a practical method for dealing with operators who are not in compliance with the established plan of operations or operating standards, or both. The Service has several options for handling operators who are noncompliant, including, but not limited to: Notifying and working with operators to bring them into compliance; issuing formal notices of noncompliance; assessing penalties for failure to comply with a notice of noncompliance; and for more egregious cases, filing a civil action in Federal court seeking an injunction or restraining order to halt operations.

Questions:

a. What are the most effective means for the Service to encourage compliance with an established plan of operations and operating standards?

b. Are there new and emerging technologies, techniques, and verification systems that would improve effectiveness and efficiency of monitoring and verifying compliance with regulations and permit requirements?

c. Are some penalties and/or deterrence techniques more effective than others to ensure compliance?

d. Could a system be designed based on transparency of plans, operations, and practices that would foster use of better practices and compliance, and make it easier for the Service and public to understand oil and gas operations?

Issue 6: Existing Operations

Many operators are already exploring, drilling, and producing non-Federal oil and gas on Refuge System lands. Our goal is to ensure that we bring existing operations into compliance with any new rulemaking as seamlessly as possible to meet effective best management practices when operating on lands and waters of the Refuge System. We do not want to disrupt existing operations or impose an unreasonable burden on operators or Refuge System field staff.

Questions:

a. What is a fair and reasonable timeline for the Service to bring existing operations into compliance with the new regulations?

b. Is there a way to stagger certain aspects of compliance that would make it less burdensome on both operators and Refuge System staff?

Issue 7: Impacts from the Proposed Rulemaking

The PEIS will analyze a range of reasonable alternatives for regulating non-Federal oil and gas exploration, development, and production, and the potential environmental impacts on refuge resources, such as threatened and endangered species, waterfowl, migratory birds, air and water quality, soils, vegetation, wetlands, cultural resources, viewsheds, and soundscapes. The PEIS will also analyze effects on oil and gas operators, visitor experiences, public safety, adjacent lands, our changing environment, and refuge operations.

Questions:

a. Keeping the limited scope of the PEIS in mind, what do you believe are the important national impacts for the Service to analyze in the PEIS for a proposed rule on non-Federal oil and gas operations on the Refuge System (e.g., impacts to daily refuge operations, costs involved in monitoring)?

b. What unique legislation or legal consideration should the PEIS take into account when analyzing potential impacts on specific regions or states?

Public Participation

The Service seeks responses from the public to the questions above. We also seek any relevant comments on other issues that are related to this proposed rulemaking. We especially seek recommendations for effective and efficient approaches to managing non-Federal oil and gas development on the Refuge System. After analyzing the comments received from this notice, we will determine how to proceed with a proposed rulemaking.

All submissions received must include the Service docket number for this notice. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Service will continue to solicit public input through a collaborative process as we develop the proposed rule and PEIS. We will also include additional background information on non-Federal oil and gas operations on the Refuge System at the following Web site: *http://www.fws.gov/refuges/oil-and-gas/*

Dated: February 18, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–03792 Filed 2–21–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 79, No. 36
Monday, February 24, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Arizona National Scenic Trail Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to establish an advisory council and call for nominations.

SUMMARY: The Secretary of Agriculture intends to establish the Arizona National Scenic Trail Advisory Council (Council) pursuant to Section 5(d) of the National Trails System Act (Act) (Pub. L. 90–543), as amended through (Pub. L. 111–11) (16 U.S.C. 1241 to 1251). The Council is being established to provide advice and recommendations on matters relating to the Arizona National Scenic Trail (Arizona Trail), including but not limited to, the development and implementation of a comprehensive plan, selection of rights-of-way, standards for the erection and maintenance of markers along with Scenic Trail, and interpretation of the Scenic Trail. Therefore, the Secretary of Agriculture is seeking nominations for individuals to be considered as Council members. The public is invited to submit nominations for membership.

DATES: Written nominations must be received by April 25, 2014. Nominations must contain a completed application packet that includes the nominee's name, resume, and completed form AD–755 (Advisory Committee Membership Background Information). The form AD–755 may be obtained from the Forest Service contact person or from the following Web site: *http://www.ocio.usda.gov/forms/doc/AD-755_Master_2012_508%20Ver.pdf.* The package must be sent to the address below.

ADDRESSES: Send nominations and applications to Laura White, USDA Forest Service, 300 W. Congress Street, Tuczon, AZ 85701; telephone 520–388–8328; email; *laurawhite@fs.fed.us.* **FOR FURTHER INFORMATION CONTACT:** Laura White, U.S. Forest Service, Tucson, AZ 85701; telephone (520)388–8328, email: *laurawhite@fs.fed.us.*

Individuals who use telecommunications devices or the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. an 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

In accordance with Section 5(d) of the National Trails System Act (Act) (Pub. L. 90–543, as amended through Pub. L. 111–11) (16 U.S.C. 1241 to 1251), and the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2), the Secretary of Agriculture intends to establish the Arizona National Scenic Trail Advisory Council. The Council will be a statutory advisory council. The Council will operate under the provisions of FACA and will report to the Secretary of Agriculture through the Chief of the Forest Service.

The purpose of the Council is to advise and make recommendations to the Secretary of Agriculture, through the Chief of the Forest Service, on matters relating to the Arizona National Scenic Trail in accordance with Section 5(d) of the Act, which states,

> The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the system, . . . establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment, . . . If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate committees of the Congress. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail . . .

Advisory Council Organization

The Council will be comprised of not more than 13 members. The members appointed to the Council will provide a fairly balanced and broad representation of all public interests, including, but not limited to the following points of view: Federal Department or Independent Agency.

Members shall be appointed by the Secretary of Agriculture as follows:

1. The Regional Forester of the Southwestern Region, Forest Service or a designee;
2. The State Director of the Arizona State Office, Bureau of Land Management (BLM) or a designee;
3. The Regional Director of the Intermountain Region—National Park Service or a designee;
4. A representative of the State of Arizona (selected from recommendations by the Governor).

Additional Council members will include:

5. At least one representative from Arizona State Parks;
6. At least one representative from County or Municipal Parks and Recreation;
7. At least one representative for Tribes;
8. At least two representatives from the National Scenic Trail and non-motorized trail users organizations;
9. At least one representative from Conservation organizations;
10. At least one representative from Gateway Communities;
11. At least one representative from the Ranching industry; and
12. At least one representative from Private landholders.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Council.

The Council will meet at least once annually or as often as necessary and at such times as designated by the Designated Federal Official (DFO).

The appointment of members to the Council will be made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to serve on the Arizona National Scenic Trail Advisory Council. Individuals may also nominate themselves. To be considered for membership, nominees must submit:

1. Resume describing qualification for membership to the Council;
2. Cover letter with a rationale for serving on the Council and what you can contribute; and
3. Complete form AD–755, Advisory Committee Membership Background Information.

Letters of recommendations are welcome. All nominations will be vetted by USDA. The Secretary of

Agriculture will appoint council members to the Arizona National Scenic Trail Advisory Council from the list of qualified applicants.

The non-Federal and non-Independent Agency members of the Council will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Council, subject to approval by the DFO.

Equal opportunity practices in accordance with U. S. Department of Agriculture (USDA) policies shall be followed in all appointments to the committee. To help ensure that recommendations of the committee have taken into account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent women, men, racial and ethnic groups, and persons with disabilities.

Dated: February 11, 2014.

Gregory Parham,

Acting Assistant Secretary for Administration.

[FR Doc. 2014–03793 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–TM–14–0005]

USDA Farmers Market Application; Notice of Request for Revision and Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for an extension of the currently approved information collection for OMB 0581–0229, USDA Farmers Market Application. Copies of this one-time yearly application form to participate in the U.S. Department of Agriculture (USDA) Farmers Market may be obtained by calling the AMS Marketing Services Branch contact listed or visiting the Web site at *www.ams.usda.gov/farmersmarkets.*

DATES: Comments received by April 25, 2014 will be considered.

Additional Information or Comments: Contact Velma Lakins, Marketing Services Division, Transportation and Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 4523 South Building, Ag Stop 0269, Washington, DC 20250–0269; Tel. 202/720–8317, or Fax 202/690–0031. Comments should reference docket number AMS–TMP–14–0005.

SUPPLEMENTARY INFORMATION:

Title: USDA Farmers Market Application

OMB Number: 0581–0229.

Expiration Date of Approval: June 30, 2014.

Type of Request: Extension of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) directs and authorizes the Secretary of Agriculture to conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market packaging, handling, transporting, distributing, and marketing agricultural products, 7 U.S.C. 1622(a). Moreover, 7 U.S.C. 1622(f) directs and authorizes the Secretary to conduct and cooperate in consumer education for more effective utilization and greater consumption of agricultural products. In addition, 7 U.S.C. 1622(n) authorizes the Secretary to conduct services and to perform activities that will facilitate the marketing and utilization of agricultural products through commercial channels.

On December 23, 2005, the AMS published a final rule in the **Federal Register** (70 FR 76129) to implement established regulations and procedures under 7 CFR Part 170 for AMS to operate the USDA Farmers Market, specify vendor criteria and selection procedures, and define guidelines to be used for governing the year-round USDA Farmers Market. A one-time yearly submission information collection in a required application form was also established.

The information collection for OMB 0581–0229 *USDA Farmers Market Application* is required by farms or businesses participating at the USDA Farmers Market. The information allows AMS the means of reviewing the type of products available for sale and selecting participants for the annual market season. The type of information within the application includes: (1) Certification the applicant is the owner or representative of the farm or business; (2) applicant contact information including name(s), address, phone number, and email address; (3) farm or business location; (4) types of products grown; (5) business practices; (6) weekly sales data: and (6) insurance coverage.

Weekly sales data will be collected from the vendors. This information will be useful in letting us know how well the market and vendors are doing overall.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.089 hours per response.

Respondents: Farmers and/or vendors completing the application to participate in the USDA Farmers Market.

Estimated Number of Respondents: 30.

Estimated Total Annual Responses: 572.

Estimated Number of Responses per Respondent: 19.06.

Estimated Total Annual Burden on Respondents: 51.08 hours.

Farmers Market Guidelines:

Estimated Number of Respondents: 14.

Estimated Total Annual Responses: 14.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3.50 hours.

Market vendor sales weekly (outdoor):

Estimated Number of Respondents: 14.

Estimated Total Annual Responses: 336.

Estimated Number of Responses per Respondent: 24.

Estimated Total Annual Burden on Respondents: 27.99 hours.

Market vendor sales weekly (indoor):

Estimated Number of Respondents: 8.

Estimated Total Annual Responses: 192.

Estimated Number of Responses per Respondent: 24.

Estimated Total Annual Burden on Respondents: 15.99 hours.

Comments are invited on: (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 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to the following address:

- Mail: Velma Lakins, Marketing Services Division, Transportation and Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 4523 South Building, Ag Stop 0269, Washington, DC 20250–0269.
- Internet: *www.regulations.gov*

All written comments should be identified with the docket number AMS–TMP–14–0005. All comments received will be available for public inspection during regular business hours at the same address. It is our intention to have all comments whether submitted by mail or internet available for viewing on the Regulations.gov (*www.regulations.gov*) Internet site. Comments submitted will also be available for public inspection in person at USDA–AMS, Transportation and Marketing Programs, Marketing Services Division, Room 4523-South Building, 1400 Independence Ave. SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received are requested to make an appointment in advance by calling (202) 720–8317.

The information collected is used only by authorized employees of the USDA, AMS.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: February 18, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–03904 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0106]

General Conference Committee of the National Poultry Improvement Plan; Solicitation for Membership

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of solicitation for membership.

SUMMARY: We are giving notice that the Secretary of Agriculture is soliciting nominations for the election of regional membership, a member-at-large, and alternates to the General Conference Committee of the National Poultry Improvement Plan.

DATES: Consideration will be given to nominations received on or before May 9, 2014.

ADDRESSES: Completed nomination forms should be mailed, faxed, or emailed to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Denise L. Brinson, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, 1506 Klondike Road, Suite 101, Conyers, GA 30094–5173; phone (770) 922–3496; fax (770) 922–3498; email *denise.l.brinson@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The General Conference Committee (the Committee) of the National Poultry Improvement Plan (NPIP) is the Secretary's Advisory Committee on poultry health. The Committee serves as a forum for the study of problems relating to poultry health and as necessary makes specific recommendations to the Secretary concerning ways the U.S. Department of Agriculture may assist the industry in addressing these problems. The Committee assists the Department in planning, organizing, and conducting the Biennial Conference of the NPIP. The Committee recommends whether new proposals should be considered by the delegates to the Biennial Conference.

The Committee consists of an elected member-at-large who is a NPIP participant and an elected member (and alternate) from each of six regions. Terms will expire for three of the current regional members of the Committee as well as the member-at-large in July 2014. We are soliciting nominations from interested organizations and individuals to replace the member-at-large and members on the Committee from the North Atlantic region (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont), the East North Central region (Illinois, Indiana, Michigan, Ohio, and Wisconsin), and the Western region (Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming).

Selection of members and their alternates is determined by a majority vote of the NPIP delegates from the respective region. The voting will be by secret ballot of official delegates from the respective region, and the results will be recorded. The member-at-large will be elected by all official delegates. There must be at least two nominees for each position. To ensure the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, at least one nominee from each of the three regions must have a demonstrated ability to represent underrepresented groups (minorities, women, persons with disabilities, and persons with limited English proficiency). All members serve for 4 years, subject to the continuation of the Committee by the Secretary of Agriculture.

Nominees wishing to be considered for election must complete Form AD–755. Nomination forms are available on the Internet at *http://www.ocio.usda.gov/forms/doc/AD-755.pdf* or may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 18th day of February 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–03843 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Annual List of Newspapers To Be Used by the Alaska Region for Publication of Legal Notices of Proposed Projects and Activities Implementing Land and Resource Management Plans, Including Hazardous Fuel Reduction Projects, Subject to the Pre-Decisional Administrative Review Process

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that Ranger Districts, Forests, and the Regional Office of the Alaska Region will use to publish legal notices of the opportunity to object to proposed projects and activities implementing land and resource management plans, including hazardous fuel reduction projects authorized under the Healthy Forests Restoration Act of 2003. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notice of actions subject to the pre-decisional administrative review process at 36 CFR part 218, thereby allowing them to receive constructive notice of the proposed actions, to provide clear evidence of timely notice, and to achieve consistency in administering the pre-decisional review process.

DATES: Publication of legal notices in the listed newspapers begins on March 1, 2014. This list of newspapers will remain in effect until it is superceded by a new list, published in the **Federal Register**.

ADDRESSES: Robin Dale, Alaska Region Group Leader for Appeals, Litigation and FOIA; Forest Service, Alaska Region; P.O. Box 21628; Juneau, Alaska 99802–1628.

FOR FURTHER INFORMATION CONTACT: Robin Dale; Alaska Region Group Leader for Appeals, Litigation and FOIA; (907) 586–9344.

SUPPLEMENTARY INFORMATION: This notice provides the list of newspapers that Responsible Officials in the Alaska Region will use to give notice of projects and activities implementing land and resource management plans, including hazardous fuel reduction projects authorized under the Healthy Forests Restoration Act of 2003, subject to the pre-decisional administrative review process at 36 CFR part 218. The timeframe for objection to a proposed project subject to this process shall be based on the date of publication of the legal notice of the project in the newspaper of record identified in this notice.

The newspapers to be used for giving notice of Forest Service projects in the Alaska Region are as follows:

Alaska Regional Office

Decisions of the Alaska Regional Forester:
Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska; and the *Anchorage Daily News,* published daily in Anchorage, Alaska.

Chugach National Forest

Decisions of the Forest Supervisor and the Glacier and Seward District Rangers:
Anchorage Daily News, published daily in Anchorage, Alaska.
Decisions of the Cordova District Ranger:
Cordova Times, published weekly in Cordova, Alaska.

Tongass National Forest

Decisions of the Forest Supervisor and the Craig, Ketchikan/Misty, and Thorne Bay District Rangers:
Ketchikan Daily News, published daily except Sundays and official holidays in Ketchikan, Alaska.
Decisions of the Admiralty Island National Monument Ranger, the Juneau District Ranger, the Hoonah District Ranger, and the Yakutat District Ranger:
Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska.
Decisions of the Petersburg District Ranger:
Petersburg Pilot, published weekly in Petersburg, Alaska.
Decisions of the Sitka District Ranger:
Daily Sitka Sentinel, published daily except Saturday, Sunday, and official holidays in Sitka, Alaska.
Decisions of the Wrangell District Ranger:
Wrangell Sentinel, published weekly in Wrangell, Alaska.

Supplemental notices may be published in any newspaper, but the timeframes for filing objections will be calculated based upon the date that legal notices are published in the newspapers of record listed in this notice.

Dated: February 12, 2014.

Ruth M. Monahan,

Deputy Regional Forester.

[FR Doc. 2014–03789 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Inventory and Analysis RPA Assessment Review Tables

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: The Forest Service is seeking comments from all interested individuals and organizations on the draft tables for the 2012 Resources Planning Act (RPA) Update of the Forest Resources of the United States. These tables will be the basis for analysis of status and trends in the nation's forests and includes data for 1953, 1977, 1987, 1997, 2007, and 2012.

DATES: Comments must be received in writing on or before April 25, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The draft review tables are available in *.pdf format at *http://fia.fs.fed.us.* Comments concerning this notice should be addressed to Dr. Richard Guldin, Director, Quantitative Sciences Staff—Forest Service, Mail Stop 1119, Washington, DC 20090–6090. Comments also may be submitted via facsimile to 703–605–5131 or by email to *bsmith12@fs.fed.us.*

The public may inspect comments received at 1400 Independence Ave SW., Washington, DC 20250, between regular business hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. Visitors are encouraged to call ahead to 703- 605–4177 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: W. Brad Smith, Quantitative Sciences Staff by phone at 703–605–4177 or by email to *bsmith12@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: Through its Research organization, the Forest Service conducts continuous Statewide inventories of the Nation's forest resources to ascertain trends in the extent, condition, ownership, quantity, and quality of the forest resources in compliance with Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1600, 1641–1648). This information is collected by the Forest Inventory and Analysis (FIA) program and forest statistics and subsequent analyses are released as State, Regional, and National reports and are based on data collected at sample locations on all land ownerships across the United States. Every 5 years, the FIA program compiles a summary of this data into standard tables as part of the RPA Assessment' Forest Resources of the United States report.

Dated: February 18, 2014.

Carlos Rodriguez-Franco,

Acting Deputy Chief, Research and Development.

[FR Doc. 2014–03794 Filed 2–21–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule (Committee) will meet in Sacramento, California. Attendees may also participate via webinar and conference call. The Committee operates in compliance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). Additional information concerning the Committee can be found by visiting the Committee's Web site at: *http://*

www.fs.usda.gov/main/planningrule/committee.

DATES: The meeting will be held, in-person and via webinar/conference call on the following dates:

- Wednesday, March 5, 2014 from 8:00 a.m. to 5:00 p.m. PST
- Thursday, March 6, 2014 from 8:00 a.m. to 5:00 p.m. PST
- Friday, March 7, 2014 from 8:00 a.m. to 12:00 p.m. PST

ADDRESSES: The meeting will be held at the Hyatt Regency Sacramento, 1209 L Street, Sacramento, CA 95814. Attendees may also participate via webinar and conference call. For anyone who would like to attend via webinar and conference call, please visit the Web site listed above or email Chalonda Jasper at *cjasper@fs.fed.us* for more information. Written comments must be sent to USDA Forest Service, Ecosystem Management Coordination, 201 14th Street SW., Mail Stop 1104, Washington, DC 20250–1104. Comments may also be sent via email to Chalonda Jasper at *cjasper@fs.fed.us,* or via facsimile to 703–235–0138.

All comments are placed in the record and are available for public inspection and copying, including names and addresses when provided. The public may inspect comments received at 201 14th Street SW., Washington, DC, 2rd Floor Central. Please contact, Chalonda Jasper at 202–260–9400, *cjasper@fs.fed.us,* to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Chalonda Jasper, Ecosystem Management Coordination, 202–260–9400, *cjasper@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to begin formulating a work plan for the next six months. This meeting is open to the public.

The following business will be conducted:

1. Discussion of a work plan;
2. Discussion of smaller work group findings; and
3. Administrative tasks.

The agenda and a summary of the meeting will be posted on the Committee's Web site within 21 days of the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled *For Further Information Contact.* All reasonable accommodation requests are managed on a case by case basis.

Dated: February 14, 2014.

James M. Peña,

Associate Deputy Chief, National Forest System.

[FR Doc. 2014–03791 Filed 2–21–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Large Pelagics Fishing Survey.

OMB Control Number: 0648–0380.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 15,024.

Average Hours per Response: Large pelagics telephone survey, 11 minutes; large pelagics intercept survey, 5 minutes; telephone validation survey, 1 minute, 30 seconds; large pelagics biological survey, 1 minute.

Burden Hours: 3,608.

Needs and Uses: This request is for revision and extension of a current information collection.

The Large Pelagic Fishing Survey consists of dockside and telephone surveys of recreational anglers for large pelagic fish (tunas, sharks, and billfish) in the Atlantic Ocean. The survey provides the National Marine Fisheries Service (NMFS) with information to monitor catch of bluefin tuna, marlin and other federally managed species. Catch monitoring in these fisheries and collection of catch and effort statistics for all pelagic fish is required under the Atlantic Tunas Convention Act and the Magnuson-Stevens Fishery Conservation and Management Act. The information collected is essential for the United States (U.S.) to meet its reporting obligations to the International Commission for the Conservation of Atlantic Tuna.

This action seeks to revise the Large Pelagic Fishing Survey in the following ways:

- Drop the Large Pelagics Headboat Survey (LPHS) component.
- Increase the annual Large Pelagics Telephone Survey (LPTS) target sample size from 10,780 to 15,900 interviews for Northeast and Southeast combined.
- Add up to five questions to the LPTS questionnaire.
- Add a non-response follow-up survey to the LPTS in the Southeast region (previously only the Northeast was covered).
- Reduce the Large Pelagics Biological Survey annual sample size from 1,500 to 1,000 interviews.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Biweeekly or annually.

Respondent's Obligation: Mandatory.

This information collection request can be viewed at *http://www.reginfo.gov.* Follow the instructions to review Department of Commerce collections currently under review.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax no. (202) 395–5806.

Dated: February 18, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–03751 Filed 2–21–14; 8:45 am]

BILLING CODE 3510– 22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Nautical Discrepancy Reporting System.

OMB Control Number: 0648–0007.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 300.

Average Hours per Response: 30 minutes.

Burden Hours: 150.

Needs and Uses: This request is for a revision and extension of a currently approved information collection.

National Oceanic and Atmospheric Administration (NOAA) Office of Coast Survey is the nation's nautical chartmaker, maintaining and updating over a thousand charts covering the 3.5 million square nautical miles of coastal waters in the U.S. Exclusive Economic Zone and the Great Lakes. Coast Survey also writes and publishes the *United States Coast Pilot®*, a series of nine nautical books that supplement nautical charts with essential marine information that cannot be shown graphically on the charts and are not readily available elsewhere.

Revision: Until recently, Coast Survey asked readers of the *Coast Pilot* to submit corrections or reports of inaccuracies by mailing or faxing a printed form found in the book. That form was discontinued. Now Coast Survey solicits information through the online Nautical Discrepancy Reporting System (*http://ocsdata.ncd.noaa.gov/idrs/discrepancy.aspx*).

Data obtained through this system is used to update U.S. nautical charts and the *United States Coast Pilot.*

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *http://www.reginfo.gov.* Follow the instructions to review Department of Commerce collections currently under review.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 18, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–03752 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Space-Based Data Collection System (DCS) Agreements.

OMB Control Number: 0648–0157.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 415.

Average Hours per Response: 68 minutes.

Burden Hours: 471.

Needs and Uses: This request is for extension of an existing information collection.

The National Oceanic and Atmospheric Administration (NOAA) operates two space-based data collection systems (DCS), the Geostationary Operational Environmental Satellite (GOES) DCS and the Polar-Orbiting Operational Environmental Satellite (POES) DCS, also known as the Argos system. NOAA allows users access to the DCS if they meet certain criteria. The applicants must submit information to ensure that they meet these criteria. NOAA does not approve agreements where there is a commercial service available to fulfill the user's requirements.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; state, local or tribal government; federal government.

Frequency: Annually, every three years, every five years.

Respondent's Obligation: Required to obtain or maintain benefits.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to review Department of Commerce collections under review.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax no. (202) 395–5806.

Dated: February 18, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–03795 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

[Docket No. 131202999–3999–01]

Privacy Act of 1974; Altered System of Records

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice of Amendment, Privacy Act System of Records, COMMERCE/CENSUS–5, Decennial Census Program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552A(e)(4) and (11); and Office of Management and Budget (OMB) Circular A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals", the Department of Commerce is issuing notice of intent to amend the system of records under COMMERCE/CENSUS–5, Decennial Census Program. This amendment would update: The categories of individuals and records covered by the system of records; the authorities for maintenance of the system of records; the system manager and address; the policies and practices for storage, retention, disposal, and safeguarding the system of records; and record source categories. This amendment also makes other minor administrative updates. Accordingly, the COMMERCE/CENSUS–5, Decennial Census Program notice published in the **Federal Register** on March 18, 2010 (75 FR 13076), is amended as below. We invite public comment on the system amendment announced in this publication.

DATES: To be considered, written comments on the proposed amendments must be submitted on or before March 26, 2014.

Effective Date: Unless comments are received which necessitate modification, the amended system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Please address comments to: Byron Crenshaw, Privacy Compliance Branch, Room—8H021, U.S. Census Bureau, Washington, DC 20233–3700.

SUPPLEMENTARY INFORMATION: This update makes six program-related changes. The first of six proposed changes to program-related provisions updates the categories of individuals covered by the system to provide additional information and detail including information regarding employee data and paradata. Census Bureau employee characteristics and auxiliary data known as paradata also collected during census and survey interviews, pilot tests, and cognitive interviews are covered under the authority of 5 U.S.C. 301 as described in Systems of Record Notice covered under SORN COMMERCE/Census–2, Performance Measurement Records. The second proposed change updates the categories of records in the system to provide additional categories including categories associated with new technologies, e.g., GPS coordinates,

mobile device ID, etc. The third proposed change updates the authorities to add the anti-wire tapping law due to the inclusion of recordings of census and survey interviews, cognitive interviews and pilot tests. The fourth proposed change updates the policies and practices for storing (including recordings of the American Community Survey and the Decennial Census of Population and Housing, cognitive and pilot test interviews), retaining and disposing, and safeguarding the records. The fifth proposed change updates the system manager and address. The sixth proposed change updates the record source categories to provide more information and detail regarding external source records. This amendment also provides minor administrative updates to the purpose, routine uses and retrievability of the system of records. The entire resulting system of records notice, as amended, appears below.

COMMERCE/CENSUS–5

SYSTEM NAME:

Decennial Census Program.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–8100; Bureau of the Census, Bowie Computer Center, 17101 Medford Boulevard, Bowie, Maryland 20715.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons surveyed during the ongoing American Community Survey and all persons counted during the Decennial Census of Population and Housing as well as all persons counted in any pilot census and survey tests of procedures related to the American Community Survey and the Decennial Census of Population and Housing are covered by the system. Participation in the decennial censuses (the American Community Survey and the Decennial Census of Population and Housing) as well as all of the pilot censuses is mandatory. Data collected directly from respondents may be supplemented with data from administrative record files received from other federal, state, or local agencies. Comparable data may also be obtained from private persons and commercial sources. These are collected and processed under the Statistical Administrative Records System. Please see the COMMERCE/CENSUS–8, Statistical Administrative Records System SORN for more information. Field Representative (FR) and interviewer characteristics as well as paradata collected during the American Community Survey and the Decennial Census of Population and Housing (including the same data obtained during recordings) are covered under SORN COMMERCE/Census–2, Performance Measurement Records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records collected by the American Community Survey and its pilot surveys may contain information such as: Population information—name, address, email address, telephone number (both landline and cell phone number), driver's license number, age, sex, race, Hispanic origin, relationships, housing tenure, number of persons in the household, as well as more detailed information on topics such as, marital status and history, fertility, income, employment, education, health insurance or health coverage plans, disability, grandparents as care-givers, and military status and history; Housing information—year built, structure description, uses, features, amenities, number of rooms, utilities, purchase type (e.g., mortgage or deed of trust), and financial characteristics (e.g., home value, property taxes, etc.). Records collected during the Decennial Census of Population and Housing and its pilot censuses may contain information such as: Population information—name, address, email address, telephone number (both landline and cell phone number), age, sex, race, Hispanic origin, relationship, housing tenure, number of persons in the household, number of persons in the household not permanent residents, and whether residents sometimes live somewhere else. Additionally, records collected by the Decennial Census of Population and Housing, the American Community Survey, and their cognitive interviews and pilot tests may collect other information including: GPS coordinates, IP address, mobile device ID, and record identification number. GPS coordinates, IP addresses, and mobile device ID may be collected when a mobile device is used to respond to the Decennial Census of Population and Housing, the American Community Survey, and pilot tests. In accordance with 13 U.S.C., Section 6(c), information in the American Community Survey and Decennial Census of Population and Housing may, under specific circumstances and arrangements, also come from administrative records obtained from federal, states, counties, cities, or other units of government. Comparable data may also be obtained from private persons and commercial sources. For instance, the U.S. Census Bureau works with all Federal agencies to obtain counts from their records of federally affiliated Americans overseas. The U.S. Census Bureau also makes arrangements with certain types of facilities (e.g., prisons, long-term care facilities, colleges) to obtain administrative records data on individuals when direct enumeration of those people is not feasible for safety, health, or other reasons. Additional information may be obtained from systems of records notice COMMERCE/CENSUS–8, Statistical Administrative Records. Pilot censuses, surveys, and research study records may contain information on individuals similar to that included in the American Community Survey and Decennial Census of Population and Housing. Field Representative (FR) and interviewer characteristics as well as paradata collected during the American Community Survey and the Decennial Census of Population and Housing (including data obtained during recordings) are covered under SORN COMMERCE/Census–2, Performance Measurement Records.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM

13 U.S.C., Sections 6 (c), 141 and 193 and (18 U.S.C. 2510–2521).

PURPOSE(S):

The purpose of this system is to collect statistical information from respondents for the Decennial Census Program, which includes both the American Community Survey and the Decennial Census of Population and Housing using responses to questions in order to provide key social, housing, and economic data for the nation. The American Community Survey, the Decennial Census of Population and Housing, and pilot census and survey records also are maintained to conduct research and analysis with survey and administrative data for projects and to undertake methodological evaluations and enhancements by the U.S. Census Bureau improving data collection and quality control. Also, information collected by the Decennial Census of Population and Housing is used to provide official census transcripts of the results to the named person(s), their heirs, or legal representatives as described in the system of records notice, COMMERCE/CENSUS–6, Population Census Personal Service Records for 1910 and All Subsequent Decennial Censuses (this does not apply to the American Community Survey and pilot census or survey records).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The data will be used only for statistical purposes. No disclosures which permit the identification of individual respondents, and no determinations affecting individual respondents will be made.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records (including, but not limited to, sound and video files of survey and cognitive interviews, and pilot tests) are stored in a secure computerized system and on magnetic media; output data will be either electronic or paper copies (including transcripts of sound files). Paper copies or magnetic media are stored in a secure area within a locked drawer or cabinet. Datasets may be accessed only by authorized personnel. Control lists will be used to limit access to those employees with a need to know; rights will be granted based on job functions.

RETRIEVABILITY:

Information for the Decennial Census of Population and Housing and for the American Community Survey and their pilot tests may be retrieved by direct identifiers such as name and address. However, a limited number of sworn U.S. Census Bureau staff will be permitted to retrieve records containing direct identifiers (such as name or address) for authorized purposes. Staff producing final statistical products will have access only to data sets from which direct identifiers have been deleted and replaced by unique non-identifying codes internal to the U.S. Census Bureau.

SAFEGUARDS:

The U.S. Census Bureau is committed to respecting respondent privacy and protecting confidentiality. Through the Data Stewardship Program, we have implemented management, operational, and technical controls and practices to ensure high-level data protection to respondents of our census and surveys. (1) An unauthorized browsing policy Federal Register/Vol. 77, No. 17/ Thursday, January 26, 2012/Notices protects respondent information from casual or inappropriate use by any person with access to Title 13 protected data. (2) All employees permitted to access the system are subject to the restriction, penalties, and prohibitions of 13 U.S.C. 9 and 214, as modified by Title 18 U.S.C. 3551, *et seq.;* the Privacy Act of 1974 (5 U.S.C. 552a(b)(4)). (3) All U.S. Census Bureau employees and persons with special sworn status will be regularly advised of regulations issued pursuant to Title 13 U.S.C. governing the confidentiality of the data, and will be required to complete an annual Title 13 awareness program. (4) All computer systems that maintain sensitive information are in compliance with the Federal Information Security Management Act, which includes auditing and controls over access to restricted data. (5) The use of unsecured telecommunications to transmit individually identifiable information is prohibited. (6) Paper copies that contain sensitive information are stored in secure facilities in a locked drawer or file cabinet behind a locked door. (7) Additional data files containing direct identifiers will be maintained solely for the purpose of data collection activities, such as respondent contact and preloading an instrument for a continued interview, and will not be transferred to, or maintained on, working statistical files. (8) Any publications based on this system will be cleared for release under the direction of the U.S. Census Bureau's Disclosure Review Board, which will confirm that all the required disclosure avoidance procedures have been implemented and no information that identifies any individual is released.

RETENTION AND DISPOSAL:

American Community Survey, Decennial Census of Population and Housing, and pilot census or survey respondent data, including personally identifying data, are generally captured as images suitable for computer processing. Original paper data sources are destroyed, according to the disposal procedures for Title 13 records, after confirmation of successful electronic data capture and data transmission of the images to U.S. Census Bureau headquarters. For the American Community Survey, personally identifying data are scheduled for permanent retention (excluding sound and video files that are retained in accordance with the General Records Schedule and U.S. Census Bureau records control schedules that are approved by the National Archives and Records Administration (NARA).

For the Decennial Census of Population and Housing, a record of individual responses, including all names and other entries provided by the respondent, and all associated address and geographic information for each housing unit or person living in group quarters is scheduled for permanent retention (excluding sound and video files that are retained in accordance with the General Records Schedule and U.S. Census Bureau records control schedules that are approved by the NARA). Pilot and cognitive test data collections, data capture, and data processing records are destroyed within two years or when no longer needed for U. S. Census Bureau program or evaluation purposes, whichever is later. All records are retained in accordance with the General Records Schedule and U.S. Census Bureau records control schedules that are approved by the NARA (Title 44, U.S.C., Section 2108).

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Decennial Census, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–8000.

Associate Director for 2020 Census, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–8000.

NOTIFICATION PROCEDURE:

None.

RECORD ACCESS PROCEDURES:

None.

CONTESTING RECORD PROCEDURES:

None.

RECORD SOURCE CATEGORIES:

Information in the Decennial Census of Population and Housing and the American Community Survey may come from administrative records from federal, states, counties, cities, or other units of government such as: The U.S. Department of Defense and the U.S. Office of Personal Management for enumeration of federally affiliated Americans overseas; tribal, State, and local governments for service-based enumeration of persons without permanent shelter and for address and road updates; the Federal Bureau of Prisons for inmate enumeration; the U.S. Postal Service for address updates; as well as the Departments of Agriculture, Education, Health and Human Services, Homeland Security, Housing and Urban Development, Labor, Treasury, Veterans Affairs, the Office of Personnel Management, the Social Security Administration, the Selective Service System, and the U.S. Postal Service. Comparable data may also be obtained from private persons and commercial sources.

EXEMPTIONS CLAIMED FOR SYSTEM:

Pursuant to 5 U.S.C. 552a (k)(4), this system of records is exempted from the otherwise applicable notification, access, and contest requirements of the

agency procedures (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f)). This exemption is applicable because the data are maintained by the U.S. Census Bureau solely as statistical records, as required under Title 13 U.S.C., to be used solely as statistical records and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance with the Department's rules, which appear in 15 CFR part 4 subpart B.

Dated: February 10, 2014.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 2014–03860 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–91–2013]

Foreign-Trade Zone 8—Toledo, Ohio; Authorization of Production Activity; Whirlpool Corporation, Subzone 8I, (Washing Machines), Clyde and Green Springs, Ohio

On October 17, 2013, Whirlpool Corporation submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within Subzone 8I, in Clyde and Green Springs, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 64197, 10–28–2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: February 14, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–03901 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–13–2014]

Foreign-Trade Zone (FTZ) 21—Charleston, South Carolina; Notification of Proposed Production Activity, MAHLE Behr Charleston, Inc., (Automotive Engine Components), Charleston, South Carolina

The South Carolina State Ports Authority, grantee of FTZ 21, submitted a notification of proposed production activity to the FTZ Board on behalf of MAHLE Behr Charleston, Inc. (MBCI), located in Charleston, South Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 6, 2014.

The MBCI facility is located within Site 26 of FTZ 21. The facility is used for the production of engine cooling modules, exhaust gas recirculation (EGR) valves and temperature sensors, and charge air coolers. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MBCI from customs duty payments on the foreign status components used in export production. On its domestic sales, MBCI would be able to choose the duty rates during customs entry procedures that apply to engine cooling modules and charge air coolers (2.5%) and exhaust gas recirculation valves and temperature sensors (free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: plastic seals; rubber o-rings/seals/gaskets; compressors; metal brackets; fans/blowers and related parts; parts of condensers and evaporators; parts of EGR valve coolers; receiver/dryers; clutches; blower motors; resistors; wiring harnesses; body ducts; radiators and related parts; parts of air coolers and heater cores; thermostats; blower regulators; aluminum strip stock; aluminum tubes; and, air inlet/outlet casings (duty rate ranges from free to 5.3%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is April 7, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 14, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–03898 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–853]

Citric Acid and Certain Citrate Salts from Canada: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on citric acid and certain citrate salts (citric acid) from Canada. The period of review (POR) is May 1, 2012, through April 30, 2013. The review covers one producer and exporter of the subject merchandise, Jungbunzlauer Canada Inc. (JBL Canada). We preliminarily determined that sales of subject merchandise have been made at prices below normal value (NV) by JBL Canada. We invite interested parties to comment on these preliminary results.

DATES: *Effective* February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Katherine Johnson, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–4007 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Results

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[1] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now February 18, 2014.

Scope of the Order

The merchandise covered by this order is citric acid and certain citrate salts. The product is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at item numbers 2918.14.0000 and 2918.15.1000, 2918.15.5000 and 3824.90.9290. Although the HTSUS numbers are provided for convenience and customs purposes, the full written scope description, as published in the antidumping duty order[2] and described in the memorandum entitled "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Citric Acid and Certain Citrate Salts from Canada" (Preliminary Decision Memorandum), remains dispositive.

Methodology

The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary 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 of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a dumping margin of 0.60 percent exists for JBL Canada for the period May 1, 2012, through April 30, 2013.

Disclosure and Public Comment

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.[3] Interested parties may submit case briefs not later than 30 days after the date of publication of this notice.[4] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[5] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[6] Case and rebuttal briefs should be filed using IA ACCESS.[7]

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via IA ACCESS.[8] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[9] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1). We intend to issue instructions to CBP 41 days after the date of publication of the final results of this review.

We will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales to that importer. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.*, .50 percent). Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[10]

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[11] Therefore, if we continue to calculate an antidumping duty margin for JBL Canada in the final results which is above *de minimis*, we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review as discussed above. Conversely, if we calculate a *de minimis* margin for JBL Canada in the final results of this review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department clarified its "automatic assessment" regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by JBL Canada for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of*

[1] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance: "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

[2] *See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders*, 74 FR 25703 (May 29, 2009) (*Citric Acid Orders*).

[3] *See* 19 CFR 351.224(b).

[4] *See* 19 CFR 351.309(c).

[5] *See* 19 CFR 351.309(d).

[6] *See* 19 CFR 351.309(c)(2) and (d)(2).

[7] *See* 19 CFR 351.303.

[8] *See* 19 CFR 351.310(c).

[9] *See id.*; 19 CFR 351.303.

[10] *See* 19 CFR 351.106(d)(2).

[11] *See* section 751(a)(2)(C) of the Act.

Antidumping Duties, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for JBL Canada will be the rate established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 23.21 percent, the all-others rate established in the original investigation.[12] These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: February 14, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[12] *See Citric Acid Orders*, 74 FR 25703.

[FR Doc. 2014–03955 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–841, A–570–924, and A–520–803]

Polyethylene Terephthalate Film, Sheet and Strip From Brazil, the People's Republic of China, and the United Arab Emirates: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, Formerly Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On October 1, 2013, the Department of Commerce (Department) initiated the sunset reviews of the review of the antidumping duty orders on Polyethylene Terephthalate Film, Sheet and Strip (PET film) from Brazil, the People's Republic of China (PRC), the United Arab Emirates (UAE), and Brazil. The Department determined that it was appropriate to conduct expedited reviews. The Department finds that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the rates identified in the "Final Results of Review" section of this notice.

DATES: *Effective* February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5255.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty orders on PET film from Brazil, the PRC, and the UAE were published on November 10, 2008.[1] The sunset reviews on the antidumping duty orders on PET film from Brazil, the PRC and the UAE were initiated by the Department on October 1, 2013, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

On October 18, 2013, the Department issued a tolling memorandum extending all deadlines by 16 days for the duration of the government shutdown.[3]

On October 31, 2013, The Department received a notice of intent to participate from DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively, the petitioners), within the deadline specified in 19 CFR 351.218(d)(1)(i). Petitioners are manufacturers of a domestic like product in the United States and, accordingly, are domestic interested parties pursuant to section 771(9)(C) of the Act.

On November 18, 2013, the Department received an adequate substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department did not receive any responses from the respondent interested parties, *i.e.*, PET Film producers and exporters from PRC, UAE, and Brazil. On the basis of the notice of intent to participate and adequate substantive response filed by the petitioners and the inadequate response from any respondent interested party, the Department decided to conduct expedited sunset reviews of these orders pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C).

Scope of the Orders

The products covered by these orders are all gauges of raw, pretreated or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. Imports of PET film were classifiable in the Harmonized Tariff

[1] *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates*, 73 FR 66595 (November 10, 2008).

[2] *See Initiation of Five-Year ("Sunset") Review*, 78 FR 60253 (October 1, 2013).

[3] *See* "Memorandum for The Record from Paul Piquado, Assistant Secretary of Enforcement and Compliance," dated October 18, 2013 (Tolling Memorandum).

Schedule of the United States (HTSUS) under item number 3920.62.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Analysis of Comments Received

The issues discussed in the Decision Memorandum are the likelihood of continuation or recurrence of dumping, and the magnitude of the margins of dumping likely to prevail if these orders were revoked. The analysis addresses the impact of the *Final Modification for Reviews*[4] on these reviews. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which 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 is available to all parties in the Central Records Unit in room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/enforcement/*. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping orders of PET film from Brazil, the PRC and UAE would be likely to lead to continuation or recurrence of dumping. Further, we determine that the magnitude of the margins of dumping likely to prevail are as follows:

BRAZIL

Exporter/ producer	Margin (percent)
Terphane Inc	44.36
All others	28.72

PRC

Exporter	Producer	Margin (percent)
DuPont Teijin Films China Ltd	DuPont Hongji Foshan Co. Ltd	3.49
DuPont Teijin Films China Ltd	DuPont Teijin Hongji Films Ningbo Co., Ltd	3.49
Fuwei Films (Shandong) Co., Ltd	Fuwei Films (Shandong) Co., Ltd	3.49
Shaoxing Xiangyu Green Packing Co., Ltd	Shaoxing Xiangyu Green Packing Co., Ltd	3.49
Sichuan Dongfang Insulating Material Co., Ltd	Sichuan Dongfang Insulating Material Co., Ltd	3.49
Tianjin Wanhua Co., Ltd	Tianjin Wanhua Co., Ltd	3.49
Shanghai Uchem Co., Ltd	Sichuan Dongfang Insulating Material Co., Ltd	3.49
Shanghai Uchem Co., Ltd	Shanghai Xishu Electric Material Co., Ltd	3.49
PRC-wide Entity (including Jiangyin Jinghongda New Material Co., Ltd)		76.72

UAE

Exporter/ producer	Margin (percent)
Flex Middle East FZE (Flex UAE)	4.05
All others	4.05

The Department is issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: February 14, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–03954 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Antidumping Proceedings: Calculation of Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Madification,* 77 FR 8101 (February 14, 2012) (*Final Madification for Reviews*).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–845]

Stainless Steel Sheet and Strip in Coils From Japan: Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) finds that, in the context of the antidumping duty order on stainless steel sheet and strip in coils (SSSSC) from Japan, Hitachi Metals Ltd. (Hitachi Metals) is the successor-in-interest to the merger of Hitachi Metals and Hitachi Cable Ltd. (Hitachi Cable) for purposes of determining antidumping duty cash deposits and liabilities.

DATES: *Effective Date:* February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Rebecca Trainor, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1280 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 2013, Hitachi Metals requested that the Department conduct an expedited changed circumstances review under 19 CFR 351.221(c)(3)(ii) to confirm that it is the successor-in-interest to Hitachi Cable for purposes of determining antidumping duty cash deposits and liabilities.

On December 31, 2013, the Department preliminarily determined that Hitachi Metals is the successor-in-interest to the merger of Hitachi Metals and Hitachi Cable.[1] In the *Initiation and Preliminary Results,* we provided all interested parties with an opportunity to comment or request a public hearing regarding this finding. We received no comments or requests for a public hearing from interested parties within

[1] *See Stainless Steel Sheet and Strip in Coils from Japan: Initiation of Expedited Changed Circumstances Review, and Preliminary Results of Changed Circumstances Review,* 78 FR 79667 (December 31, 2013) (*Initiation and Preliminary Results*).

the time period set forth in the *Initiation and Preliminary Results.*

Scope of the Order

The products covered by the order are certain stainless steel sheet and strips in coils. The merchandise subject to the order is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in the *Order,* remains dispositive.[2]

Final Results of Changed Circumstances Review

Because no parties submitted comments opposing the Department's preliminary results, and because there is no other information or evidence on the record that calls into question the preliminary results, for the reasons outlined in the *Initiation and Preliminary Results,* the Department determines that Hitachi Metals is the successor-in-interest to the merger of Hitachi Metals and Hitachi Cable for the purpose of determining antidumping duty liability.[3] Specifically, we find that the merger of these two companies resulted in no significant changes to management, production facilities, supplier relationships, and customers with respect to the production and sale of the subject merchandise. Thus, Hitachi Metals operates as the same business entity as Hitachi Cable with respect to the subject merchandise.[4] As a result of this determination, we find that Hitachi Metals should receive the cash deposit rate previously assigned to Hitachi Cable in the most recently completed review of the antidumping duty order on SSSSC from Japan. Consequently, the Department will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise produced and/or exported by Hitachi Metals and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at 0.00 percent, which is the urrent cash deposit rate for Hitachi Cable.[5] This cash deposit requirement shall remain in effect until further notice.

Notification

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 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3).

Dated: February 12, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–03893 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–DS–P

[2] For a complete description of the scope, *see Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Japan,* 64 FR 40565 (July 27, 1999). *See also Initiation and Preliminary Results.*

[3] *See Initiation and Preliminary Results,* 78 FR at 79668–70.

[4] *Id.,* at 79669.

[5] *See Stainless Steel Sheet and Strip in Coils from Japan: Final Results of Antidumping Duty Administrative Review,* 75 FR 6631, 6633 (February 10, 2010).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–991]

Countervailing Duty Investigation of Chlorinated Isocyanurates From the People's Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Determination

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce (the "Department") preliminarily determines that countervailable subsidies are being provided to producers and exporters of chlorinated isocyanurates ("chlorinated isos") from the People's Republic of China (the "PRC"). We invite interested parties to comment on this preliminary determination.

DATES: *Effective* February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Paul Walker, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202.482.2312 or 202.482.0413, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The products covered by this investigation are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) Trichloroisocyanuric acid ("TCCA") ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3 \times 2H_2O$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isocyanurates are available in powder, granular and solid (*e.g.,* tablet or stick) forms.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and

trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. The tariff classifications 3808.50.4000, 3808.94.5000 and 3808.99.9500 cover disinfectants that include chlorinated isocyanurates. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Methodology

The Department is conducting this countervailing duty ("CVD") investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the "Act"). For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memo.[1] The Preliminary Decision Memo is a public document and is on file electronically *via* Enforcement & 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 is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memo can be accessed directly on the Internet at *http://trade.gov/enforcement.* The signed Preliminary Decision Memo and the electronic versions of the Preliminary Decision Memo are identical in content.

The Department notes that, in making these findings, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.[2] For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memo.

Alignment

As noted in the Preliminary Decision Memo, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty ("AD") investigation of chlorinated isos from Japan.[3] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than June 30, 2014, unless postponed.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated. We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy rate
Hebei Jiheng Chemicals Co., Ltd.	18.57
Juancheng Kangtai Chemical Co., Ltd.	1.55
All Others	10.06

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of chlorinated isos from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates calculated for the exporters and producers individually investigated. Where the rates for the investigated companies are all zero or *de minimis,* section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an all-others rate using "any reasonable method." Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the "all-others" rate by weight averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. Therefore, for the "all-others" rate, we calculated a simple average of the two responding firms' rates.

Disclosure and Public Comment

The Department will disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments for all non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[4] A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[5] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission ("ITC") of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this

[1] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Countervailing Duty Investigation of Chlorinated Isocyanurates from the People's Republic of China: Decision Memorandum for the Preliminary Determination," dated concurrently with this notice ("Preliminary Decision Memo").

[2] *See* sections 776(a) and (b) of the Act.

[3] *See Chlorinated Isocyanurates from Japan: Initiation of Antidumping Duty Investigation,* 78 FR 58997 (September 25, 2013).

[4] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[5] *See* 19 CFR 351.310(c).

investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: February 11, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memo

1. Scope Comments
2. Scope of the Investigation
3. Alignment
4. Respondent Selection
5. Injury Test
6. Application of Countervailing Duty Law to Imports from the PRC
7. Subsidies Valuation
8. Benchmarks and Discount Rates
9. Use of Facts Otherwise Available and Adverse Inferences
10. Analysis of Programs
11. Verification

[FR Doc. 2014–03712 Filed 2–21–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Request for Nominations for the Industry Trade Advisory Committees (ITACs)

AGENCY: International Trade Administration, Industry and Analysis.

ACTION: Request for nominations.

SUMMARY: This month, the Secretary of Commerce (the Secretary) and the United States Trade Representative (the USTR) are renewing the charters of the 16 Industry Trade Advisory Committees (ITACs) and the Committee of Chairs of the ITACs for a four-year term to expire in February 2018. The ITACs provide detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting industry sectors; and perform other advisory functions relevant to U.S. trade policy matters as may be requested by the Secretary and the USTR or their designees. There are currently opportunities for membership on each ITAC. Nominations will be accepted for current vacancies and those that occur throughout the remainder of the charter term, which expires in February 2018.

DATES: Appointments will be made on a rolling basis. For that reason, nominations will be accepted through February 14, 2018.

ADDRESSES: Submit nominations to Ingrid V. Mitchem, Director, Industry Trade Advisory Center, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 4043, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ingrid V. Mitchem, Director, Industry Trade Advisory Center, (202) 482–3268.

Recruitment information also is available on the International Trade Administration Web site at: *www.trade.gov/itac.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. App.) and section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155), the Secretary and the USTR have renewed the charters of 16 ITACs and the Committee of Chairs of the ITACs. The Secretary and the USTR welcome nominations for the ITACs listed below:

Industry Trade Advisory Committees on:

(ITAC 1) Aerospace Equipment
(ITAC 2) Automotive Equipment and Capital Goods
(ITAC 3) Chemicals, Pharmaceuticals, Health/Science Products and Services
(ITAC 4) Consumer Goods
(ITAC 5) Distribution Services
(ITAC 6) Energy and Energy Services
(ITAC 7) Forest Products
(ITAC 8) Information and Communications Technologies, Services, and Electronic Commerce
(ITAC 9) Building Materials, Construction, and Nonferrous Metals
(ITAC 10) Services and Finance Industries
(ITAC 11) Small and Minority Business
(ITAC 12) Steel
(ITAC 13) Textiles and Clothing
(ITAC 14) Customs Matters and Trade Facilitation
(ITAC 15) Intellectual Property Rights
(ITAC 16) Standards and Technical Trade Barriers

Background

Section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155), directed the establishment of a private-sector trade advisory system to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. Section 135(a)(1) directs the President to:

> seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—
>
> (A) negotiating objectives and bargaining positions before entering into a trade agreement under [Subchapter I of the Trade Act of 1974 (19 U.S.C. 2111–2241) and section 2103 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803)];
>
> (B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and
>
> (C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States . . .

Section 135(c)(2) of the 1974 Trade Act provides that:

> (2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—
>
> (A) consult with interested private organizations; and
>
> (B) take into account such factors as—
>
> (i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,
>
> (ii) the character of the nontariff barriers and other distortions affecting such competition,
>
> (iii) the necessity for reasonable limits on the number of such advisory committees,
>
> (iv) the necessity that each committee be reasonably limited in size, and
>
> (v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

Pursuant to this provision, the Department of Commerce (Commerce) and the Office of the USTR (USTR) have established and co-administer 16 ITACs, the Committee of Chairs of the ITACs, and the Industry Trade Advisory Center.

Functions

The duties of the ITACs are to provide the President, through the Secretary and the USTR, with detailed policy and technical advice, information, and recommendations regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting industry sectors; and perform other

advisory functions relevant to U.S. trade policy matters as may be requested by the Secretary and the USTR or their designees. The ITACs provide nonpartisan, industry input in the development of trade policy objectives. The ITACs' efforts have assisted the United States in putting forward unified positions when it negotiates trade agreements.

The ITACs address market-access problems; barriers to trade; tariff levels; discriminatory foreign procurement practices; and information, marketing, and advocacy needs of their industry sector. Thirteen ITACs provide advice and information on issues that affect specific sectors of U.S. industry. Three ITACs focus on cross-cutting, functional issues that affect all industry sectors: Customs matters and trade facilitation (ITAC 14); intellectual property rights (ITAC 15); and standards and technical trade barriers (ITAC 16). In addition to members appointed exclusively to these three ITACs, ITACs 1–13 each may select a member to represent their ITAC as a non-voting member on each of these three cross-cutting ITACs so that a broad range of industry perspectives is represented. Other trade policy issues, e.g., government procurement, subsidies, etc., may be addressed in *ad hoc* working groups created by the ITACs.

Each ITAC meets an average of six times a year in Washington, DC. Some ITACS meet more often depending on the work of a particular committee.

Each Committee consists of members with experience relevant to the industry sector for ITACs 1 through 13 or the subject area for ITACs 14 through 16. The members serve in a representative capacity presenting the views and interests of a sponsoring U.S. entity or U.S. organization and the entity's or organization's subsector (if applicable) on trade matters. In selecting members, Commerce and USTR also consider the nominee's ability to carry out the objectives of the Committee, including knowledge and expertise of the industry and of trade matters relevant to the work of the Committee, and ensuring that the Committee is balanced in terms of points of view, demographics, geography, and entity or organization size. Because members serve in a representative capacity, they are, therefore, not Special Government Employees. Members serve at the discretion of the Secretary and the USTR.

Members serve without compensation and are responsible for all expenses incurred to attend the meetings. ITAC members are appointed jointly by the Secretary and the USTR. Each ITAC elects a chairperson from the membership of the ITAC, and that chairperson serves on the Committee of Chairs of the ITACs.

Appointments are made following the re-chartering of each ITAC and periodically throughout the four-year charter term. Appointments expire at the end of the ITACs' charter terms, in this case, in February 2018.

Appointments to all ITACs are made without regard to political affiliation.

Eligibility and Application Process

The following eligibility requirements must be met:

1. The applicant must be a U.S. citizen;
2. The applicant must not be a full-time employee of a U.S. governmental entity;
3. The applicant must not be a federally-registered lobbyist;
4. The applicant must not be registered with the Department of Justice under the Foreign Agents Registration Act;
5. The applicant must be able to obtain and maintain a security clearance; and
6. The applicant must represent either:

a. a U.S. entity that is directly engaged in the import or export of goods or services or that provides services in direct support of the international trading activities of other entities; or

b. a U.S. organization that: Trades internationally; represents members that trade internationally; or, consistent with the needs of a Committee as determined by the Secretary and the USTR, represents members who have a demonstrated interest in international trade.

For eligibility purposes, a "U.S. entity" is a for-profit firm engaged in commercial, industrial, or professional activities that is incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by other U.S. entities. An entity is not a U.S. entity if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is known to be controlled, directly or indirectly, by non-U.S. citizens or non-U.S. entities.

For eligibility purposes, a "U.S. organization" is an organization, including trade associations, labor unions and organizations, and nongovernmental organizations (NGOs), established under the laws of the United States, that is controlled by U.S. citizens, by another U.S. organization (or organizations), or by a U.S. entity (or entities), as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable. To qualify as a U.S. organization, more than 50 percent of the board of directors (or comparable governing body) and more than 50 percent of the membership of the organization to be represented must be U.S. citizens, U.S. organizations, or U.S. entities. Additionally, in order for NGOs to qualify as U.S. organizations, at least 50 percent of the NGO's annual revenue must be attributable to nongovernmental U.S. sources.

If a nominee is to represent an entity or organization known to have 10 percent or greater non-U.S. ownership of its shares or equity, non-U.S. board members, non-U.S. membership, or non-U.S. funding sources, as applicable, the nominee must certify in its statement affirming its eligibility that this non-U.S. interest does not constitute control and will not adversely affect his or her ability to serve as a trade advisor to the United States.

Historically, the Secretary and the USTR have appointed a representative of the public health or health care community to each of ITACs 3 and 15, and an environmental representative to each of ITACs 3 and 7. The Secretary and the USTR will continue to consider nominations for representatives of such viewpoints to those ITACs.

In order to be considered for ITAC membership, a nominee should submit:

(1) Name, title, and relevant contact information of the individual requesting consideration;

(2) The ITAC for which the individual is applying for appointment;

(3) A sponsor letter on the entity's or organization's letterhead containing a brief description of why the applicant should be considered for membership on the ITAC;

(4) The applicant's personal resume demonstrating knowledge of international trade issues;

(5) An affirmative statement that the applicant meets all ITAC eligibility requirements;

(6) An affirmative statement that the applicant is not a federally registered lobbyist, and that the applicant understands that if appointed, the applicant will not be allowed to continue to serve as an ITAC member if the applicant becomes a federally registered lobbyist; and

(7) Information regarding the sponsoring entity, including the control of the entity or organization to be represented and the entity's or organization's size and ownership, product or service line, and trade activities.

Submit applications to Ingrid V. Mitchem, Director, Industry Trade Advisory Center, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 4043, Washington, DC 20230.

Additional requirements exist for nominations of consultants and legal advisors. The specific requirements will vary depending on the nature of the entity or organization and interests to be represented. Interested consultants and legal advisors should contact the Industry Trade Advisory Center or consult the International Trade Administration Web site at: *www.trade.gov/itac* for additional information on the submission requirements.

Applicants that meet the eligibility criteria will be considered for membership based on the following criteria: Ability to represent the sponsoring U.S. entity's or U.S. organization's and the entity's or organization's subsector's (if applicable) interests on trade matters; ability to carry out the objectives of the particular ITAC (including knowledge and expertise of the industry and of trade matters relevant to the work of the ITAC); and ensuring that the ITAC is balanced in terms of points of view, demographics, geography, and entity or organization size.

This notice is issued pursuant to the Federal Advisory Committee Act (5 U.S.C., app. 2), 19 U.S.C. 2155, and 41 CFR part 102–3 relating to advisory committees.

Dated: February 12, 2014.

Elizabeth Emanuel,

Deputy Director, Office Advisory Committees.

[FR Doc. 2014–03493 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Reporting Requirements for the Ocean Salmon Fishery Off the Coasts of Washington, Oregon, and California

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 April 25, 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 Peggy Mundy, (206) 526–4323 or *peggy.mundy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

Based on the management regime specified each year, designated regulatory areas in the commercial ocean salmon fishery off the coasts of Washington, Oregon, and California may be managed by numerical quotas. To accurately assess catches relative to quota attainment during the fishing season, catch data by regulatory area must be collected in a timely manner. Requirements to land salmon within specific time frames and in specific areas may be implemented in the preseason regulations to aid in timely and accurate catch accounting for a regulatory area. State landing systems normally gather the data at the time of landing. If unsafe weather conditions or mechanical problems prevent compliance with landing requirements, fishermen need an alternative to allow for a safe response. Fishermen would be exempt from landing requirements if the appropriate notifications are made to provide the name of the vessel, the port where delivery will be made, the approximate amount of salmon (by species) on board, and the estimated time of arrival.

II. Method of Collection

Notifications are made by at-sea radio or cellular phone transmissions.

III. Data

OMB Control Number: 0648–0433.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 40.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 10 hours.

Estimated Total Annual Cost to Public: $0 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: February 18, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–03779 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD121

Criteria To Assist the Assistant Administrator in Determining if an Observer Program is Qualified and Authorized

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

ACTION: Notice; request for comments.

SUMMARY: NMFS requests comments on criteria to determine if observers participating in observer programs are qualified and authorized to certify that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught and, if applicable, that no purse seine net was intentionally deployed on or used to encircle dolphins during the fishing trip in which the tuna were caught. The criteria are intended to

assist the Assistant Administrator for Fisheries when making a determination of whether an observer program is "qualified and authorized" for purposes of the dolphin-safe labeling program under the Dolphin Protection Consumer Information Act.

DATES: Written comments must be received on or before March 26, 2014.

ADDRESSES: Written comments may be sent by any of the following methods:

- Email to the following address: *nmfs.observer.criteria@noaa.gov.*
- Mail or hand deliver to Bill Jacobson, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, California 90802. Mark the outside of the envelope "Public Comment on Observer Criteria."

FOR FURTHER INFORMATION CONTACT: Bill Jacobson by phone at (562) 980–4035.

SUPPLEMENTARY INFORMATION: On July 9, 2013, NMFS published a final rule under the Dolphin Protection Consumer Information Act titled "Enhanced Document Requirements to Support Use of the Dolphin Safe Label on Tuna Products" (78 FR 40997) that amended regulations at 50 CFR part 216, subpart H. Sections 216.91(a)(2)(iii)(B) and (a)(4)(ii) authorize the Assistant Administrator for Fisheries to determine if observers participating in observer programs using any gear type in any ocean are qualified and authorized to certify that no dolphins were killed or seriously injured in the sets or other gear deployments in which the tuna were caught and, if applicable, that no purse seine net was intentionally deployed on or used to encircle dolphins during the fishing trip in which the tuna were caught. That determination triggers a requirement that when an observer from the qualified and authorized program is on board a vessel that harvests tuna during a fishing trip, such tuna would require a certification executed by the observer or by an authorized representative of the nation participating in the observer program in order to be used in tuna products labeled "dolphin safe." This certification would be in addition to the requirement that tuna used in tuna products labeled "dolphin safe," be accompanied by a written statement executed by the Captain of the harvesting vessel (codified in § 216.91(a)(2)(ii), (a)(2)(iii)(A) and (a)(4)(i)).

NMFS anticipates that qualified observers will have undergone training programs that include such topics as recognizing an intentional set, dolphin species identification, recognizing dolphin mortality and how to collect the information needed for determining a serious injury. NMFS acknowledges that these skills are complex. NMFS will determine an observer program is "qualified and authorized" based on a rigorous scrutiny of the observer program's training programs and a finding that the observers or a designated program representative is capable of making the requisite determinations.

Using the criteria, the Assistant Administrator for Fisheries will determine which observer programs are qualified and authorized and will announce such determinations in the **Federal Register** and also on the NMFS West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov.* Only tuna used in tuna products labeled dolphin-safe and harvested on fishing trips that began after the date of a determination would be subject to the new requirement for an observer certification, and only for fishing trips on which an observer is on board the vessel.

In this notice, NMFS requests public input on criteria to assist the Assistant Administrator in making a determination of whether an observer program is "qualified and authorized." After consideration of public comments, NMFS will publish the final criteria in the **Federal Register**.

Dated: February 18, 2014.

Rodney R. McInnis,

Acting Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 2014–03945 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD142

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of four scientific research and enhancement permits.

SUMMARY: Notice is hereby given that NMFS has issued Permit 17913 to Stillwater Sciences, Permit 17551 and Permit 18181 to the California Department of Fish and Wildlife (CDFW), and Permit 1415 to the United States Fish and Wildlife Service (USFWS).

ADDRESSES: The approved application for each permit is available on the Applications and Permits for Protected Species (APPS), *https://apps.nmfs.noaa.gov* Web site by searching the permit number within the Search Database page. The applications, issued permits and supporting documents are also available upon written request or by appointment: NMFS West Coast Region, 650 Capitol Mall, Room 5–100, Sacramento, CA 95814 ph: (916) 930–3600, fax: (916) 930–3629.

FOR FURTHER INFORMATION CONTACT: Amanda Cranford at (916) 930–3706, or email: *Amanda.Cranford@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) Would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) Are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to the conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to federally endangered Sacramento River (SR) winter-run Chinook salmon (*Oncorhyncus tshawytscha*), threatened Central Valley (CV) spring-run Chinook salmon (*O. tshawytscha*), threatened California Central Valley (CCV) steelhead (*O. mykiss*), and threatened southern distinct population segment (SDPS) of North American green sturgeon (*Acipenser medirostris*).

Permits Issued

Permit 17913

A notice of the receipt of an application for a scientific research and enhancement permit (17913) was published in the **Federal Register** on March 28, 2013 (78 FR 18963). Permit 17913 was issued to Stillwater Sciences on September 6, 2013 and expires on December 31, 2018.

Permit 17913 is for two studies to be carried out in the Tuolumne River between river mile (RM) 52.5 and RM 0, and in the San Joaquin River between RM 79 (Gardner Cove) and RM 90 (Laird Park). The Tuolumne River fisheries monitoring project will evaluate and

measure ESA-listed salmonid and non-listed fish species distribution, population abundance, habitat utilization, and habitat quality in the lower Tuolumne River in Stanislaus County, California. This project will monitor the effects of water diversion facilities maintained by the Turlock and Modesto Irrigation Districts on ESA-listed salmonids and non-listed fish species and the effects of past and ongoing habitat restoration actions to provide information and guide future habitat restoration and management actions within the Tuolumne River watershed. This study includes observational snorkel surveys as well as direct collection and handling of juvenile fall-run Chinook salmon and CCV steelhead using beach seine methods. Any captured juvenile CCV steelhead will be handled (sedated and measured for length and weight), placed in an aerated bucket to recover, and released downstream of the capture site.

The Tuolumne River O. mykiss Temperature Adaptation Assessment project will examine temperature tolerances of juvenile salmonid life stages that inhabit the lower Tuolumne River. Fish collected for this project may potentially include ESA-listed CCV steelhead. Up to 50 juvenile O. mykiss will be collected from the Tuolumne River during summer months (June-September) of each year using beach seine methods between La Grange powerhouse (RM 52.2) and Roberts Ferry Bridge (RM 39.5). Individual test fish will be placed in Brett swim tubes and tested for physiological performance, measuring both a routine, or resting (minimum) respiratory rate and a swimming (maximum) respiratory rate at a single test temperature. Test fish would be allowed to fully recover prior to release in the lower Tuolumne River.

Permit 17551

A notice of the receipt of an application for a scientific research and enhancement permit (17551) was published in the **Federal Register** on March 28, 2013 (78 FR 18963). Permit 17551 was issued to the CDFW's Region II on September 9, 2013 and expires on December 31, 2018.

The overall goal of this project is to increase knowledge with regards to the behavior of young of the year and yearling SDPS green sturgeon from the Sacramento River and their presumed nursery grounds of the Sacramento-San Joaquin Delta and subsequently the ocean staging habitat of San Francisco Bay. Information on timing, survival, and transition rates through the bay and Delta region are necessary for understanding potential risks to juvenile green sturgeon.

The study proposed for Permit 17551 will be a collaborative effort between the University of California Davis Biotelemetry Laboratory and CDFW. Objectives are to: (1) Develop capture methods for monitoring of juvenile green and white sturgeon in the lower Sacramento River and Sacramento-San Joaquin Delta; (2) Describe spatial and temporal movements during emigration from the lower Sacramento River to the tidally influenced reaches of the upper Delta; (3) Assess the seasonal migration and survival through engineered flood plains (Yolo Bypass); and (4) Describe spatial and temporal use of the Sacramento-San Joaquin Delta and behavior and emigration timing to San Francisco Bay. CDFW is proposing to capture (tangle nets, modified fyke nets), handle (measure lengths and weights, surgical implantation of acoustic tags), and release juvenile SDPS green sturgeon once adequately recovered.

Permit 18181

A notice of the receipt of an application for a scientific research and enhancement permit (18181) was published in the **Federal Register** on September 25, 2013 (78 FR 59005). Permit 18181 was issued to the CDFW's Region II on January 14, 2014 and expires on December 31, 2018.

The primary purpose of Permit 18181 will be to assess entrainment following inundation at weir structures in the Central Valley during high flow events and within the Colusa Basin Drainage Canal (CBDC). If entrainment occurs, fish will be rescued and relocated to the lower Sacramento River near Tisdale Weir, in Sutter County, California. The objectives of the proposed rescue and monitoring are to: (1) Capture, tag and relocate SR winter-run Chinook salmon and other species of management concern in the lower reaches of the CBDC or at Wallace Weir within the Yolo Bypass to estimate the number of fish entering the CBDC; (2) Construct and place modified fyke traps at key locations within the interior of the CBDC system to capture, tag and relocate stranded fish if the weirs lower in the system are not successful at stopping fish; (3) Assess the level of entrainment behind Fremont and Tisdale weirs and evaluate the survival and behavior of entrained adults that are rescued and relocated following increased flows and flooding; and (4) Identify conditions resulting in high levels of entrainment specific to each location.

The take associated with rescue and research activities involving ESA-listed salmonids and SDPS green sturgeon will include: capture (resistance board weir, fyke traps, block nets, hoop nets, beach seines), handling (measurements, weights, fin clips for genetic analysis, application of Floy tags, surgical implantation of acoustic tags), transport (if applicable) and the release of ESA-listed salmonids and SDPS green sturgeon back into the Sacramento River.

Permit 1415

A notice of the receipt of an application for modification of a scientific research and enhancement permit (1415) was published in the **Federal Register** on September 25, 2013 (78 FR 59005). Permit 1415 was issued to the USFWS, Red Bluff Fish and Wildlife Office on February 6, 2014 and expires on December 31, 2018.

The overall purpose of the projects is to provide monitoring data for various evaluations, including restoration actions, stream flow assessments, management actions, and life-history investigations. Species under investigation include SR winter-run Chinook salmon, CV spring-run Chinook salmon, CCV steelhead, and SDPS green sturgeon. Streams targeted for research and monitoring include Battle Creek, Clear Creek, and the mainstem of the upper Sacramento River (i.e., upper river and surrounding watersheds).

Take resulting from the proposed research and monitoring activities will involve observations (snorkel surveys, redd counts and escapement/stream surveys) or capture (by trawl, seine, fyke-net trap, benthic D-net, substrate samplers, hook and line, backpack electrofishing, weir trap, trammel or gill net, rotary screw trap, egg mats, or by dip net), handling (sedation, fin clipping, tissue sampling, coded-wire tag extraction, otolith extraction), marking (Bismark brown Y stain), tagging (acoustic, passive integrated transponder [PIT]), and release of fish in association with eight separate projects.

Dated: February 19, 2014.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–03806 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 140113029–4029–01]

RIN 0648–XD080

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List 10 Species of Skates and Rays and 15 Species of Bony Fishes as Threatened or Endangered Under the Endangered Species Act

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

ACTION: 90-day petition finding, request for information.

SUMMARY: We (NMFS) announce a 90-day finding on a petition to list 10 species of skates and rays and 15 species of bony fishes as threatened or endangered under the Endangered Species Act (ESA). We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted for five species of skates and rays: *Dasyatis margarita, Electrolux addisoni, Okamejei pita, Pastinachus solocirostris,* and *Trygonorrhina melaleuca.* We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for five species of skates and rays: *Bathyraja griseocauda, Raja undulata, Rhinobatos cemiculus, R. horkelii,* and *R. rhinobatos.* We also find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted for ten species of bony fishes: *Argyrosomus hololepidotus, Azurina eupalama, Chaetodontoplus vanderloosi, Colpichthys hubbsi, Enneapterygius namarrgon, Halichoeres socialis, Paraclinus magdalenae, Paraclinus walkeri, Paralabrax albomaculatus,* and *Tomicodon abuelorum.* And we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for five species of bony fishes: *Latimeria chalumnae, Mycteroperca fusca, Mycteroperca jordani, Pterapogon kauderni,* and *Scarus trispinosus.* Therefore, we will conduct a status review of the 10 species of skates and rays and bony fishes to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information pertaining to these petitioned species from any interested party. In addition to the petitions to list these species, the petitioner has requested that we list the coelacanth *Latimeria menadoensis* based on similarity of appearance to *Latimeria chalumnae.* If we determine that *L. chalumnae* warrants listing under the ESA, we will make a determination on the petitioner's request to list *L. menadoensis* based on similarity of appearance at a later date.

DATES: Information and comments on the subject action must be received by April 25, 2014.

ADDRESSES: You may submit comments, information, or data on this document, identified by the code NOAA–NMFS–2014–0021, by any of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0021,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous), although submitting comments anonymously will prevent NMFS from contacting you if NMFS has difficulty retrieving your submission. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the petition and related materials are available upon request from the Director, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910, or online at: *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

FOR FURTHER INFORMATION CONTACT: Marta Nammack, Office of Protected Resources, 301–427–8469.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from the WildEarth Guardians to list 81 marine species as threatened or endangered under the ESA and to designate critical habitat under the ESA. Copies of this petition are available from us (see **ADDRESSES**). This finding addresses 25 of the fish species (10 skates and rays and 15 bony fishes) identified as part of this petition. The 10 skates and rays considered in this finding are: *Bathyraja griseocauda* (graytail skate), *Dasyatis margarita* (ray), *Electrolux addisoni* (ornate sleeper ray), *Okamejei pita* (pita skate), *Pastinachus solocirostris* (roughnose stingray), *Raja undulata* (undulate ray), *Rhinobatos cemiculus* (blackchin guitarfish), *Rhinobatos horkelii* (Brazilian guitarfish), *Rhinobatos rhinobatos* (common guitarfish/violinfish), and *Trygonorrhina melaleuca* (magpie fiddler ray). The 15 bony fishes considered in this finding are: *Argyrosomus hololepidotus* (Madagascar kob/Madagascar meager), *Azurina eupalama* (Galápagos damsel), *Chaetodontoplus vanderloosi* (coral reef fish), *Colpichthys hubbsi* (Delta silverside), *Enneapterygius namarrgon* (lightning man triplefin), *Halichoeres socialis* (social wrasse), *Latimeria chalumnae* (coelacanth/gombessa), *Mycteroperca fusca* (comb grouper/island grouper), *Mycteroperca jordani* (Gulf grouper), *Paraclinus magdalenae* (Magdalena blenny), *Paraclinus walkeri* (reef fish), *Paralabrax albomaculatus* (camotillo), *Pterapogon kauderni* (Banggai cardinalfish), *Scarus trispinosus* (greenback parrotfish), and *Tomicodon abuelorum* (grandparents clingfish).

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a "positive 90-day finding"), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must

conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a "may be warranted" finding at the 90-day stage does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a species, which is defined to also include subspecies and, for any vertebrate species, any DPS that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, "the Services") policy (DPS Policy) clarifies the agencies' interpretation of the phrase "distinct population segment" for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722; February 7, 1996). A species, subspecies, or DPS is "endangered" if it is in danger of extinction throughout all or a significant portion of its range, and "threatened" if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following five section 4(a)(1) factors: the present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define "substantial information" in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day stage, we evaluate the petitioner's request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude that it supports the petitioner's assertions. Conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the lack of information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a "species" eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by non-governmental organizations, such as the International Union for Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do "not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act" because NatureServe assessments "have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide" (*http://www.natureserve.org/prodServices/statusAssessment.jsp*). Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

With respect to the 25 fish species discussed in this finding, the petitioner relies almost exclusively on the risk classifications of the IUCN as the source of information on the status of each petitioned species. All of the petitioned species are listed as "endangered" or "critically endangered" on the IUCN

Redlist, and the petitioner notes this as an explicit consideration in offering petitions on these species. Species classifications under the IUCN and the ESA are not equivalent, and the data standards, evaluation criteria, and treatment of uncertainty are also not necessarily the same. Thus, we instead consider the information on threats identified by the petitioners, as well as the data on which they are based, as they pertain to each petitioned species.

Species Descriptions

Fishes exhibit enormous diversity in their morphology, in the habitats they occupy, and in their biology, and they include a vast array of distantly related vertebrates, including hagfish, lamprey, lungfish, and flatfish (Nelson, 1976). Of the 81 species or populations petitioned for listing, 50 are fishes: 3 hagfishes of the Order Myxiniformes; 32 cartilaginous fishes (15 sharks of the Order Lamniformes, 7 sharks of the Order Squaliformes, and 10 skates and rays of the Order Rajiformes); and 15 bony fishes (1 of the Order Coelacanthiformes, 1 of the Order Atheriniformes, 12 of the Order Perciformes, and 1 of the Order Gobiesociformes). We have already published 90-day findings for the hagfishes (78 FR 66676; November 6, 2013) and sharks (78 FR 69376; November 19, 2013), so this finding will describe our analysis of the petitioned rays and bony fishes.

Skates and Rays

The 10 petitioned species of skates and rays belong to the Order Rajiformes (Rajoids) and are in the following five families: Arhynchobatidae (softnose skates, 1 species: *Bathyraja griseocauda,* or graytail skate), Dasyatidae (stingrays, 2 species: *Dasyatis margarita,* or daisy stingray; *Pastinachus solocirostris,* or roughnose stingray), Narkidae (sleeper rays, 1 species: *Electrolux addisoni,* or ornate sleeper ray), Rajidae (skates, 2 species: *Okamejei pita,* or Pita skate; *Raja undulata,* or undulate ray), and Rhinobatidae (guitarfishes, 4 species: *Rhinobatos cemiculus,* or blackchin guitarfish; *Rhinobatos horkelii,* or Brazilian guitarfish; *Rhinobatos rhinobatos,* or common guitarfish; *Trygonorrhina melaleuca,* or magpie fiddler ray). The Order Rajiformes includes skates and rays with a dorso-ventrally flattened body, five ventral gill openings, eyes and well-developed spiracles on top of the head, and no anal fin or nictitating membrane (a transparent or translucent third eyelid present in some animals that can be drawn across the eye for protection and to moisten it while maintaining visibility).

Most species have enlarged, thorn-like dermal denticles (structurally homologous with vertebrate teeth) on the skin, often with a row of large denticles along the spine. The pectoral fins are large but not clearly demarcated from the body, and together with the body are known as the disc. They start from the side of the head in front of the gill openings and end at the caudal peduncle (narrow part of a fish's body to which the caudal or tail fin is attached). There are up to two dorsal fins but no anal fin. There is a slender tail clearly demarcated from the disc. The caudal fin varies in size between species and the rays have a whip-like tail with no caudal fin.

Rajiformes are found throughout the world's oceans, from Arctic and Antarctic waters, from shallow coastal shelves, open seas and abyssal regions. A few are found in rivers and some in estuaries but most are marine, living near the seabed at depths down to 3,000 m or more.

In most rajoids, water for breathing is taken in through the spiracles rather than through the mouth and exits through the gill slits. Most species swim by undulating their enlarged pectoral fins, but the guitarfish propel themselves through the water with sideways movements of their tail and caudal fin. Most species are carnivores feeding on molluscs and other invertebrates on the seabed, and small fish. Some species are viviparous, others ovoviviparous (both giving birth to live young), but the skates lay eggs in horny cases known as mermaid's purses. Most species are benthic, resting on the sandy or muddy seabed, sometimes undulating their pectoral fins to stir up sediment and bury themselves shallowly.

Bony Fishes

The 15 petitioned species of bony fishes belong to four orders: Atheriniformes (1 species), Coelacanthiformes (1 species), Gobiesociformes (1 species), and Perciformes (12 species).

The Order Atheriniformes includes fishes with dorsal, anal, and pelvic fins placed far back on the body, no spines in fins, a single dorsal fin, and pelvic fins with 6 rays. *Colpichthys hubbsi,* or the Delta silverside, is the one species of this order (Family Atherinopsidae) included in the petition.

The Order Coelacanthiformes includes fishes with external nostrils and a caudal fin consisting of 3 lobes. *Latimeria chalumnae,* or the coelacanth/gombessa, is the one species of this order (Family Latimeriidae) included in the petition. The petitioner also requested that we list *Latimeria menadoensis* based on similarity of appearance (ESA section 4(e)).

The Order Gobiesociformes includes fishes with no scales on their heads or bodies, 5 to 7 branchiostegal rays, and no swim bladder. *Tomicodon abuelorum,* or the grandparents clingfish, is the one species of this order (Family Gobiosocidae) included in the petition.

Finally, the Order Perciformes is a diverse order with many families, and it includes fishes with 2 dorsal fins and with spines in the fins. The twelve Perciformes included in this petition belong to nine families: (1) Apogonidae: *Pterapogon kauderni,* or Banggai cardinalfish; (2) Labridae: *Halichoeres socialis,* or social wrasse; (3) Labrisomidae: *Paraclinus magdalenae,* or Magdalena blenny; and *Paraclinus walkeri,* or reef fish; (4) Pomacanthidae: *Chaetodontoplus vanderloosi,* or coral reef fish; (5) Pomacentridae: *Azurina eupalama,* or Galápagos damsel; (6) Scaridae: *Scarus trispinosus,* or greenback parrotfish; (7) Scianidae: *Argyrosomus hololepidotus,* or Madagascar kob; (8) Serranidae: *Mycteroperca fusca,* or comb grouper/island grouper; *Mycteroperca jordani,* or Gulf grouper; and *Paralabrax albomaculatus,* or camotillo; and (9) Tripterygiidae: *Enneapterygius namarrgon,* or lightning man triplefin.

Analysis of the Petition

The petition clearly indicates the administrative measure recommended and gives the scientific and common names of the species involved. Based on the information presented in the petition, along with the information readily available in our files, we find that each of the 25 petitioned species constitutes a valid "species" eligible for listing under the ESA as each is considered a valid taxonomic species (though, as the petitioner notes, there is a possibility that, with more information, *Trygonorrhina melaleuca* could be a mutant form of *Trygonorrhina* fasciata, the southern fiddler ray). With the exception of *Mycteroperca jordani,* which occurs off southern California, as well as in the Gulf of California, the petitioned fishes are found exclusively in foreign waters. The petition contains a narrative justification for the recommended measures and provides limited information on the species' geographic distribution, habitat, and threats. For the skates and rays, little information is provided regarding the ten species' past or present numbers, or population status and trends for all or a significant portion

of the species' ranges. For some of the bony fishes, some past and present relative abundance data and provisional abundance data are provided. Supporting documentation is provided, mainly in the form of IUCN species assessments. We had no information in our files for any of the petitioned skates and rays, but did have some limited information on one of the bony fishes, *Pterapogon kauderni* (Banggai cardinalfish). A synopsis of our analysis of the information provided in the petition and readily available in our files is provided below. Following the format of the petition, we first discuss the introductory information presented for each group of species and then discuss the species-specific information.

Threats to the Skates and Rays

The ten skate and ray species petitioned for listing are currently listed as either "endangered" or "critically endangered" on the IUCN Red List. The petition asserts that these species are being threatened with extinction by four of the five ESA section 4(a)(1) factors—habitat destruction, overutilization, inadequacy of regulatory mechanisms, and natural factors—which we discuss in turn below.

In terms of habitat destruction, the petition focuses on human population growth and associated consequences (e.g., pollution, rapid coastal development, climate change) as the main drivers of the destruction of skate and ray habitat. The petition states, "Increased economic growth in coastal cities is a major cause of ocean habitat destruction" and "Climate change is expected to further magnify these coastal pollution problems." Some of the associated consequences of human population growth are discussed further; however, specific information to link these general threats to skate and ray habitats or impacts to skate and ray habitat is lacking. For example, the petition discusses the increase in the number and size of "dead zones" (i.e., areas of very low levels of dissolved oxygen) worldwide, but no information is provided to indicate whether and to what extent any dead zones overlap with or affect the habitats of the petitioned species.

In terms of overutilization, the petition asserts that both bycatch and commercial harvest present threats to the ten skates and rays petitioned for listing under the ESA. Some information is presented on the extent of harvest and bycatch of some of the ten skate and ray species. The fate of by-caught skates and rays is not discussed. The petition notes that fishing that negatively affects these species is often unregulated or under-regulated and often uses unsustainable practices such as targeting pregnant females at predictable aggregations. The petition states that at least some of the petitioned species are subject to recreational fishing.

The petition states that no conservation measures are in place for nearly all of the petitioned skates and rays and that ESA listings are needed to prevent their extinction. It notes that several fisheries limit catch or effort on petitioned rays and skates (e.g., *Bathyraja griseocauda),* but that these limitations are often ignored, unmonitored, or based on insufficient stock status assessments. It also states that two marine reserves (Banc d'Arguin in Mauritania, and Marine Protected Areas (MPAs) in the Bijagos archipelago, the PNO marine reserve, and the PNMJVO marine reserve in Guinea-Bissau) that cover a portion of the range of two Rhinobatoid species do not provide sufficient protection because, despite a ban on targeted elasmobranch fishing in the first, and a prohibition on commercial fishing in the second, fishing for other species still occurs, resulting in bycatch. Also, the petition asserts that under-enforcement is a problem, and no information exists on the efficacy of these MPAs. We do not necessarily consider a lack of species-specific protections a threat to the particular species. For example, management measures that regulate other species, activities (e.g., commercial fisheries), or areas may indirectly function to minimize threats to the petitioned species. As stated previously, we look for substantial information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

The petition specifically points to the lack of a listing under CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) for any of these species as a threat to the petitioned skates and rays. We agree with the statement in the petition that the absence of a CITES listing for a given species is not evidence that the same species does not warrant the protections of the ESA. However, we find nothing to substantiate the statement in the petition that ". . . the absence of CITES listing is problematic" for the ten skate and ray species. CITES is a tool to manage and regulate international trade in situations where trade has been identified as a threat to the particular species' survival in the wild. No specific information on international trade of any of the petitioned skates and rays is presented in the petition or available to us, though the petition states, "skate landings have been increasing considerably in Argentina due to international demand," and we do not have any information in our files regarding direct harvest of these skate and ray species.

Lastly, the petition asserts that the ten skate and ray species are threatened as a result of their K-selected strategy (large size, low productivity, late age at maturity) because they are currently experiencing the type of rapid, chaotic change that makes their K-selected life history pattern a liability. The life history strategy of a species is an important factor to consider when evaluating a species' risk of extinction; however, it does not by itself indicate the likelihood of extinction of that species, nor does it constitute substantial information that listing under the ESA may be warranted. To determine whether listing of such a species may be warranted, there must also be substantial information indicating it is both exposed to and responding in a negative fashion to a threat such that the species may be threatened with extinction.

Overall, the broad statements and generalizations of threats for all petitioned skate and ray species do not constitute substantial information indicating that listing may be warranted for any of the petitioned species. There is little information in this introductory section indicating that particular petitioned species may be responding in a negative fashion to any of the discussed threats. While some of the information in this introductory section suggests concern for the status of many marine species generally, its broadness, generality, and/or speculative nature, and the failure of the petitioner to make logical and reasonable connections to the status of the individual petitioned species means that we cannot find that this information reasonably suggests that one or more of these threat factors may be operative threats that act or have acted on any of the petitioned species to the point that it may warrant protection under the ESA. We will consider the few instances in the introductory section that specifically link threats to a particular petitioned skate or ray species in our discussion of threats to that particular species. Information for each species is from the IUCN assessment cited in the petition for that species, unless otherwise noted, and we cite that IUCN assessment in the first sentence of each species account below. References cited in the IUCN assessments are also cited below; however, many of these

references were not available for us to review, and, therefore, these were taken at face value. We searched, but we found no information in our files on any of the petitioned skate and ray species.

Bathyraja griseocauda

According to the petitioner and the IUCN assessment for *B. griseocauda*, this benthic species occurs in the Southwest Atlantic, off Argentina and the Falkland/Malvinas Islands, and in the Southeast Pacific, off Chile (McCormack *et al.*, 2012). It is a large (at least to 156 cm total length (TL)), oviparous, slow growing, late maturing (around 15 years of age (Agnew *et al.*, 2000)) skate that occurs at depths between 82 and 941 m in the Southwest Atlantic (Menni and Stehmann, 2000) and 137 and 595 m off Chile (J. Lamilla pers. comm., 2006). Size at maturity has been estimated at around 120 cm TL for males (citing Stehmann *et al.*, unpubl. data). It has a very low tolerance for changes in water temperature and water salinity levels (Figueroa *et al.*, 1999). During research trawls around the Falkland/Malvinas Islands, *B. griseocauda* were more abundant in deeper trawls (200 and 350 m) and formed only a small part of the catch in shallow trawls (150 m) (Wakeford *et al.*, 2004). Length frequency data for individuals captured around the Falkland/Malvinas Islands showed that all sizes of *B. griseocauda* were present, with smaller individuals found in deeper water (Wakeford *et al.*, 2004). There is no evidence for large spatial or temporal movements, and the population off the Falkland/Malvinas Islands may complete its entire life cycle within Falkland Island waters (Wakeford *et al.*, 2005). Small individuals feed opportunistically on benthic isopods, and larger specimens are predominantly piscivorous on *Patagonotothen ramsayi*.

Population size of *B. griseocauda* is unknown, though decreases have been detected around the Falkland Islands (Agnew *et al.*, 2000; Wakeford *et al.*, 2004).

The petitioner asserts that rising ocean temperatures, coupled with the species' low tolerance for changes in water temperature and water salinity levels and seeming inability to move to new areas, could mean that all of its current habitat will be unsuitable in the near future as anthropogenic climate change progresses and continues to heat the ocean. However, the information provided is speculative, and the fact that there is no evidence of large spatial or temporal movements for this species does not mean that individuals could not move if they needed to find cooler habitat.

The petitioner asserts that the main threat to this species is fishing. In Argentina, skate landings have been increasing considerably because of international demand. "Prior to 1994, skate captures were less than 1,000 t[ons annually], however, since that year skate landings [have] increased considerably, reaching" more than 17,000 tons in 2003 (Massa *et al.*, 2004). *B. griseocauda* is a regular bycatch in bottom trawl fisheries for bony fishes. The petitioner stated that "Catches have been so high that there was a 15–59% decline in the biomass of the Graytail Skate captured between 45° and 55°S just from 1998 to 1999," but this appears to combine *B. griseocauda* catch in the fishery-independent investigations for hake with captures of rays by the deep sea fishing fleet, which isn't appropriate. McCormack *et al.* (2007) actually stated that, during fishery-independent investigations for hake (*Merluccius hubbsi)* and other species, Garcia de la Rosa *et al.* (2000) reported a 59 percent decline in the biomass of *B. griseocauda* captured from 45°S to 55°S from 1998 to 1999; they acknowledged, however, that during the second phase of the investigations, new gear was used which likely reduced the capture of rays. The petitioner failed to note this change in gear, which makes the 59 percent decline estimate unreliable. McCormack *et al.* (2007) also stated that captures of rays by the deep sea fishing fleet decreased by around 15 percent from 1998 to 1999 (García de la Rosa *et al.*, 2000). It is not clear how the petitioner came up with the 15–59 percent decline range for graytail skate, since the 15 percent figure seems to apply to catches of all ray species. *B. griseocauda* is also taken in the *Dipturus chilensis* directed skate fishery off Argentina, which currently comprises a single vessel. The petitioner noted that, at greater depths, *B. griseocauda* comprised up to 18 percent of the processed catch in this fishery (Colonello *et al.*, 2002); however, the petition failed to mention that species-specific bycatch data are not generally collected for this fishery. While this likely means that the actual catch of *B. griseocauda* was greater than stated in the petition, without estimates of total catch size from the single vessel or biomass of *B. griseocauda* in this region, we cannot determine whether this catch level is enough to cause the species to be at a significant risk of extinction.

This species is also taken in the multispecies skate trawl fishery around the Falkland/Malvinas Islands, operating since 1989. The fishery initially operated over two main areas, one located on the shelf edge to the north of the Islands, and the other to the south of the Islands. The petitioner and the IUCN assessment assert that this species was the dominant species of skate caught by finfish and ray-licensed vessels in 1993, especially in a ray "hot spot" to the south of the Islands where it comprised around 70 percent of the catch (Agnew *et al.*, 2000). However, they go on to state that the proportion of the catch comprising *B. griseocauda* in the southern Falklands catch had fallen to around 5 percent by 1993. They state that the proportion of this species in catches north of the Islands also fell. Since they elaborate that total catches of the species fell from around 1,500 t to around 100 t between 1993 and 1995 in the south, and from over 1,000 t to around 250 t in the northern areas between 1993 and 1997 (Agnew *et al.*, 2000), we can only guess that they meant to say that the proportion of the catch comprising *B. griseocauda* in the southern Falklands catch had fallen to around 5 percent by 1995. The mean disc width of *B. griseocauda* also decreased from 52.18 cm in 1993 to 38.08 cm in 1997. Following declines in the early 1990s, the southern fishing area (south of 52°S) was closed to the ray fleet in 1996. An assessment of the northern ray population indicated that the catch-per-unit-effort (CPUE) of this species declined from 100 kg/hr to less than 50 kg/hr from 1992 to 2001, but the petition failed to note that data quality was relatively poor and, because the data had to be grouped into discrete time periods rather than as a continuous variable, this low level of precision should be taken into consideration (D. Wakeford pers. comm., 2006). No studies have been conducted to determine the abundance of this species in the southern area since the skate fishery closure, but it is still caught as bycatch by finfish trawlers that operate around the Falkland/Malvinas Islands and within the closure area. While these trawlers cannot target rajids, a small bycatch (below 10 percent) is allowed. Despite the problems associated with the information presented in the petition, the likely decline in catches and the decrease in mean disc width discussed above may contribute to the extinction risk of *B. griseocauda*.

This species is also taken in the directed skate fishery off Chile, which primarily targets *Dipturus chilensis* but also lands other skate species. Of the six rajids caught in this fishery, *B. albomaculata, B. brachyurops, B. griseocauda, and Rajella sadowskii* make up 5 percent (Lamilla *et al.*, 2001,

2002). Overall biomass of the target species (*D. chilensis* and *D. trachydermus*) has declined by 51 percent since fishing began in 1979 (Quiróz, 2005), so the petition argues that declines are thus also likely to have occurred for bycatch species. However, the petitioner has not provided any information on catchability of the target species compared to catchability of *B. griseocauda* to support such an assumption. *B. griseocauda* is also taken as bycatch in the artisanal Patagonian toothfish longline fishery operating at depths of 300 to 2,500 m between Iquique (20°S) and Ladrillero Gulf (49°S) (Lamilla, 2003). It is not clear from this information what impact this fishery has on *B. griseocauda* because no data on abundance or catch are provided.

Some regulatory mechanisms are in place within the range of *B. griseocauda*. In Argentine waters, total allowable catches, minimum sizes, and overall annual quotas are used for managing numerous elasmobranch species, but little attention is paid to these, and there is no regular monitoring by authorities. The petitioner states that in Chile, an annual quota for *Dipturus* spp. has been in place since 2005. The petitioner also notes that there is a seasonal fishery closure for the entire Chilean coast between December 1 and February 28 to protect the reproductive season of *Dipturus* spp., but it is unknown whether this latter measure also protects the reproductive season of *B. griseocauda*. However, as discussed above, there is no reliable information presented in the petition to suggest that *B. griseocauda* may be at risk of extinction in Argentina or in Chile. As we have stated above, we look for substantial information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

The Falkland/Malvinas Islands multispecies skate fishery is managed by limiting fishing effort, but limits are not based on species-specific information. All licensed vessels are required to provide daily catch and effort details, including discards of commercial and non-commercial species to the Falkland Island Fisheries Department; however, there is no requirement to report species-specific information. Vessels fishing under general finfish licenses are prohibited from targeting skates, although a small bycatch below 10 percent is allowed (Agnew *et al.*, 2000). The petitioner contends that the regulations' focus on fishing effort instead of catch limits and the lack of species-specific reporting result in insufficient protection for *B. griseocauda*, especially for a species that should not be targeted. Because the information in the petition indicates that *B. griseocauda* catches have declined and mean disc width has decreased in the Falkland/Malvinas Islands, inadequate regulatory mechanisms in this region may be negatively impacting this species.

The petitioner asserts that the late maturation of *B. griseocauda*, coupled with evidence of drastically decreasing average size and numbers, indicates that mature individuals are being removed at a rate faster than they are being replenished, and that this is another threat to its continued existence.

Based on the best available information, we find that the threats of overutilization by fisheries, inadequate existing regulatory mechanisms, and other natural factors may be impacting *B. griseocauda* to a degree that raises concerns of a risk of extinction, with significant population decline in the Falkland/Malvinas Islands. We conclude that the petition presents substantial scientific information indicating that the petitioned action of listing *B. griseocauda* as threatened or endangered may be warranted.

Dasyatis margarita

According to the petitioner and the IUCN assessment for *D. margarita*, this tropical species is endemic to the eastern-central and southeast Atlantic along the West African coast from Senegal to Congo (Compagno and Marshall, 2009). Records from outside this range (from Angola to Mauritania and the Canary Islands) may be based on *D. margaritella*, which has been confused with this species. As a result, this distribution of *D. margarita* may prove to be smaller than described here (Compagno and Roberts, 1984). Its life history and biology are largely unknown, other than it is ovoviviparous, with 1–3 pups per litter, and it has a reported maximum size of 100 cm disc width (Stehmann, 1981). Its population size is unknown, though according to the petitioner and the IUCN assessment, catches by local fishers have declined recently, with the species now reportedly uncommon in catches.

The petitioner asserts that habitat modification and degradation from agricultural chemicals and light industry development are negatively impacting this species in some areas of its range. However, neither the IUCN assessment nor the petition provides any supporting information (or references) for this statement, such as information on the level of development in the area, the amount of chemicals entering the waters off West Africa, or evidence that the species is responding in a negative fashion to this threat. Citing the IUCN assessment, the petitioner states that fishing pressure mainly by artisanal and small scale commercial fisheries using trammel nets, bottom trawls, and beach seines (Stehmann, 1981) within its limited range is the main threat to *Dasyatis margarita*, as inshore rays are particularly susceptible to a wide range of fishing gear, and this species is targeted and marketed for human consumption. However, the petitioner provides no additional information, references, or data on these fisheries, such as their areas of operation or data on catch and bycatch. It is unclear how the petitioner came to the conclusion that these fisheries are negatively affecting the abundance of *D. margarita*. The petitioner also notes that there are no specific conservation measures in place to protect this species. Finally, the petitioner notes that this species is at increased risk of extinction because it is a K-selected species.

As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information on *D. margarita* or threats to the species in our own files. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *D. margarita*.

Pastinachus solocirostris

According to the petitioner and the IUCN assessment for *P. solocirostris*, this species is endemic to the western-central Pacific and known only from Malaysian Borneo and Indonesia. (Fahmi *et al.*, 2009). It occurs primarily in mangrove estuaries and turbid coastal marine habitats. While it most commonly occurs in very shallow water at less than 10 m depth, it has been recorded as deep as 30 m. The only pregnant female observed to date contained only one pup, suggesting low fecundity. The size at birth is about 22–23 cm disc width, with maximum size

at maturity at least 72 cm disc width. Its population size and population trend are unknown.

The petitioner contends that, because this species is known to be associated with mangrove habitat in very shallow water, it is highly vulnerable to destruction of this habitat. Extensive areas of mangrove forest have been lost in Indonesia (1,300,000 hectares from 1980 to 2005) and Malaysia (110,000 hectares from 1980 to 2005) through conversion of land for shrimp farms, excessive logging, urban development, and, to a lesser extent, conversion of land to agriculture or salt pans (FAO, 2007). Indonesia and Malaysia, therefore, have lost more than 30 percent of its combined overall mangrove area in 25 years. However, the petitioner does not provide information on the location of the mangrove loss, and the species is known to also occur in non-mangrove habitat in deeper water up to 30 m. Further, Malaysia has a very long tradition of sustainable management, plantation and afforestation programs in mangroves, and other protection plantation activities are being undertaken in Indonesia (FAO, 2007). As with other species accounts, the petitioner also cites Zamora-Arroyo *et al.* (2005) to support its assertion that, "[i]n the case of habitat destruction resulting from coastal development, the severity of impacts is high with low reversibility."

According to the petitioner, the other major threat to *P. solocirostris* is overfishing by local fisheries, as its restricted range and habitat have been heavily exploited during recent decades. This species is targeted, along with other rays, using bottom longlines in Indonesia, and it is also caught occasionally by bottom trawl and demersal gillnet fisheries operating off Sumatra and Borneo (White *et al.*, 2006). The petitioner notes that the level of exploitation on its shallow water habitat is very high and it is considered to be at a very high level of threat throughout its range. However, the petitioner provides no additional information, references, or data on these fisheries, such as their areas of operation or data on catch and bycatch. It is unclear how the petitioner came to the conclusion that these fisheries are negatively affecting the abundance of *P. solocirostris*. The petitioner asserts that no conservation measures are currently in place for this species, and that this appears to be a low fecundity species, making it more vulnerable to extinction.

As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information on *P. solocirostris* or threats to the species in our own files. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *P. solocirostris*.

Electrolux addisoni

According to the petitioner and the IUCN assessment for *E. addisoni,* this conspicuous species is restricted to "sandy patches of very limited inshore reef habitat off Eastern Cape and KwaZulu-Natal coasts of South Africa (Compagno, 2009)." It is known from only five localities from dive sites (Coffee Bay, Eastern Cape; Manaba Beach, the type locality near Margate, S. Africa; Protea Banks, near Margate; Aliwal Shoal; Tee Barge north of Durban off Virginia Beach), and it occurs in 50 m or less depth. Manaba Beach is the only place where it has been seen on more than one occasion, and it is likely restricted to a range of less than 10 km^2. It occurs in warm-temperate or subtropical waters along a very narrow continental shelf in subtidal environments in sandy and gravely patches on rocky reefs. It is the largest known member of the family Narkidae, with adult males measuring 50–52 cm TL. Only adult males have been collected to date. It feeds on infauna or meiofauna and lies motionless when not feeding. When threatened by predators (mainly large sharks), it arches its back and curls its disk and raises its tail. It has electric organs. This species is apparently very rare, with few confirmed records from 1984 to present. It may be more wide-ranging than presently known, but offshore and inshore areas on the east coast of South Africa have been relatively well sampled. Its population size and trend are unknown.

The petitioner asserts that this species is possibly threatened by pollution and habitat degradation in its very limited range, as it occurs on a heavily utilized narrow strip of habitat with heavy and increasing human utilization including recreational diving and sport and commercial fishing, runaway coastal housing development, boating, commercial shipping, holiday-making, beach utilization, shark netting, and extensive pollution and habitat degradation of inshore environments. As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. No such information was provided in the petition.

The petitioner asserts that the limited removals for scientific purposes and potential harassment and disturbance by divers of this species are a threat to a species that is so rare. However, while the condition of being rare is an important factor to consider when evaluating a species' risk of extinction, it does not by itself indicate the likelihood of extinction of that species, nor does the condition of being rare constitute substantial information that listing under the ESA may be warranted. To determine whether listing of a rare species may be warranted, there must also be substantial information indicating the rare species is both exposed to and responding in a negative fashion to a threat such that the species may be threatened with extinction. The petitioner did not provide such information.

The petitioner also notes that there are no known conservation measures for this species, and that the species' limited range (10 km^2 or less) makes it vulnerable to localized stochastic events. While a very small range may increase the extinction risk of a species, we do not consider this factor alone to constitute substantial information indicating that listing under the ESA may be warranted. There must be additional information to indicate that the species may be exposed to and respond in a negative fashion to a threat. We had no information on *E. addisoni* or threats to the species in our own files. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *E. addisoni*.

Okamejei pita

According to the petitioner and the IUCN assessment for *O. pita,* this species is endemic to the western Indian Ocean and is known from only one confirmed female specimen from the

northernmost corner of the Persian/Arabian Gulf at Fao, Iraq (Moore and Jawad, 2009). It is probably limited to mud bottoms along the Iraqi and part of the Iranian coast of the Persian/Arabian Gulf, possibly including Kuwaiti waters. It is presumably oviparous, though nothing else is known about its biology. Its population size and trend are unknown, and no species-specific surveys have been conducted (though there was survey/fisheries work done in Iraqi waters prior to the conflict in the 1980s).

The IUCN assessment notes that the IUCN Red List Guidelines state that if a taxon is only known from its type locality and any significant threats can be identified, then an IUCN rank of Critically Endangered under the IUCN's B and C criteria may be appropriate. As we noted above, species classifications under the IUCN and the ESA are not equivalent, and data standards, criteria used to evaluate species, and treatment of uncertainty are also not necessarily the same. Therefore, we must consider the information on threats identified by the petitioners, as well as the data on which they are based, as they pertain to each species. While the condition of being rare is an important factor to consider when evaluating a species' risk of extinction, it does not by itself indicate the likelihood of extinction of that species, nor does the condition of being rare constitute substantial information that listing under the ESA may be warranted. To determine whether listing of a rare species may be warranted, there must also be substantial information indicating the rare species is both exposed to and responding in a negative fashion to a threat such that the species may be threatened with extinction.

The petitioner asserts that the area of *O. pita* occurrence is subject to habitat loss, degradation and deteriorating water quality, destructive fishing practices, hydrocarbon pollution, and radiological, chemical or biotic contamination (Al-Saadi and Arndt, 1973; Hussain *et al.*, 2001; Hussain *et al.*, 1999; Douabul, 1984; Abaychi and Al-Saad, 1988; Al-Saad, 1990; Al-Saad, 1995; Al-Saad *et al.*, 1995; Al-Saad *et al.*, 1996; Al-Saad and Altimari, 1993; DouAbul *et al.*, 1987; Carroll, 2005; Birdlife International, 2006). Also, extensive damming of the Tigris-Euphrates river system in Turkey and the drainage of the Iraqi marshes during the 1990s and rapid coastal development of previously pristine and uninhabited areas, such as Bubiyan Island in Kuwait, may also have had negative impacts on the species. As in other species accounts, the petitioner cites Zamora-Arroyo *et al.* (2005) to support its assertion that, "[i]n the case of habitat destruction resulting from coastal development, the severity of impacts is high with low reversibility." The petitioner does not provide specific information indicating that these threats are indeed negatively impacting *O. pita*. As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. No such information was provided in the petition.

The petitioner asserts that the main threat to this species is thought to be overfishing. Levels of fishing-related mortality are unknown, though overfishing and illegal fishing occurs in this region. Longline, driftnet, baited mesh cage trap, intertidal skate-net trap, and trawl are the main fishing methods used in the area. For religious reasons, local Shia Muslims in southern Iraq do not consume elasmobranch fishes, so this species is likely discarded if captured. The petitioner states that fishing pressure in the area is increasing, and Iraqi fisheries are expanding southwards and apparently operating illegally in Kuwaiti and Iranian waters (Morgan, 2006). These expanding trawl and gillnet fisheries are totally unregulated, and no known conservation measures are currently in place for this species. Therefore, the petitioner argues, given this species' restricted range and already low population, it is highly likely that *O. pita* is especially vulnerable to fishing pressure within its range. However, as noted above, levels of fishing mortality are unknown, and the petitioner provides no information or references on catchability of *O. pita* or data on catch and bycatch. It is unclear how the petitioner came to the conclusion that these fisheries are negatively affecting the abundance of *O. pita*. As noted previously, though the petitioner contends that there is a complete lack of protections in place for this species, we do not necessarily consider a lack of species-specific protections as a threat to the species. For example, management measures that regulate other species or fisheries operations may indirectly help to minimize threats to the petitioned species and may be adequate to prevent its extinction. Again, we look for substantial information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion. Then we assess the potential significance of that negative response.

We had no information on *O. pita* or threats to the species in our own files. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *O. pita*.

Raja undulata

According to the petitioner and the IUCN assessment for *R. undulata*, this species has a patchy distribution in the eastern Atlantic, including the Mediterranean, with discrete areas where it may be locally common, including southwest Ireland, eastern English Channel, and southern Portugal (Coelho *et al.*, 2009). In the northeast and eastern central Atlantic, it occurs from southern Ireland and southwestern England to the Gulf of Guinea, including the Canary Islands. In the Mediterranean, it occurs mostly in the west. It occurs in shelf waters to about 200 m depth, on sandy and muddy substrates, and it appears to be more common in shallow waters. Smaller specimens can be found in coastal lagoons (sheltered habitats may be nursery areas). This species is oviparous, and it reproduces during periods of colder water. Females first mature at 8.98 years, males at 7.66 years. Size at first maturity ranges from 76.2 cm for females in the southern region to 83.8 cm for females in the western region. A discrete population occurs in Tralee Bay, Ireland, with angling records showing a peak in 1981–82, followed by lower but stable catches since then (ICES, 2007). Its population size is unknown, and it has a decreasing trend.

The petitioner contends that the main threat to this species is commercial utilization from fishing. *Raja undulata* is a common bycatch of trawl, trammel nets, and other demersal fisheries operating with its range. It has a patchy distribution, and declines have been documented in areas where it was formerly considered locally abundant. Tralee Bay catches declined from 80–100 in 1981 to 20–30 annually in the mid-1990s, followed by a slight population increase in the early 2000s. Catches now appear to be declining again, with less than 20 recorded in 2005 (though they fluctuate each year) (ICES, 2007). The species has

traditionally been observed in English beam trawl surveys in the eastern English Channel, but has been absent for the most recent 2 years (2007–2008) (ICES, 2008). ICES current advice (2008) is no target fishing in the North Sea, English Channel, and Celtic Seas. The species is captured in large quantities as bycatch in the mixed species trammel net fishery off the southern coast of Portugal; it is retained and marketed for human consumption (Coelho *et al.*, 2002). It is mainly captured in shallow waters, with catch-per-unit-effort from 1.91 specimens/1000 m of net at 10–30 m depth to 0.03 specimens/1000 m of net at more than 90 m depth (Coelho *et al.*, 2005). Landings of *Raja* spp. in the southern region of Portugal decreased by 29.1 percent between 1988 and 2004 (DGPA, 1988–2004). *Raja undulata* is the most common skate species in this area, and its size makes it more vulnerable to depletion than smaller skate species; therefore, the petitioner argues, these declines in *Raja* spp. may under-reflect changes in the population of this species (Erzini *et al.*, 2001; Coelho *et al.*, 2005). *Raja undulata* is also a known bycatch of the Spanish demersal trawl fleet operating in the Cantabrian Sea, southern Bay of Biscay, which targets a mixture of gadoids and flatfish at depths of 100–300 m over the continental shelf (ICES, 2007). Species-specific French landings data for the Celtic Seas report 12 t of *R. undulata* in 1995, 6 t in 1996, 10 t in 1997, after which landings fell to 2 t in 1998, 1 t in 1999, to 0 t in 2000–2001 (ICES, 2007). This species' preference for shallow waters places it within the range of intensive artisanal coastal fisheries operating off the western coast of Africa (Walker *et al.*, 2005); while there are no species-specific catch data for these catches, this species is presumably a utilized bycatch of these artisanal fisheries, as well as demersal trawl fisheries operating in this area. Exploitation of the continental shelf is also high in the Mediterranean Sea (Massuti and Moranta, 2003).

The petitioner asserts that there are no species-specific conservation measures in place for this species, and the species' life history characteristics (delayed age at maturity, long generation time of 14–15 years), and low fecundity) may increase the risk of extinction to *R. undulata.*

The petitioner has presented substantial information indicating that this species is negatively affected by fishing throughout its range, the lack of regulatory mechanisms, and potentially the species' K-selected life history. Based on the best available information, we find that the threats of overutilization by fisheries, inadequate existing regulatory mechanisms, and other natural factors may be impacting *R. undulata* to a degree that raises concerns of a risk of extinction, with significant population declines throughout its range. We conclude that the petition presents substantial scientific information indicating that the petitioned action of listing *R. undulata* as threatened or endangered may be warranted.

Rhinobatos cemiculus

According to the petitioner and the IUCN assessment for *R. cemiculus,* this species occurs in marine and brackish waters in subtropical areas of the Atlantic, from the northern coast of Portugal to Angola, and it is also found throughout coastal Mediterranean waters (Notarbartolo di Sciara *et al.*, 2007a). It is demersal, living over sandy or muddy substrates in shallow waters to about 100 m depth. It swims slowly over the bottom or partially buries itself under the substrate. Its maximum size varies (TL up to 192 cm for males, 230 cm for females), and its diet is composed primarily of prawn, crab, and other crustaceans and fish. It was once regarded as common within the southern Mediterranean, especially in the Gulf of Gabés on the east coast of Tunisia. However, preliminary surveys indicate populations have since diminished substantially. Few or no specimens were observed during several trawl surveys from the mid-1970s through the early 1980s in its African range. Its population size is unknown, and it has a decreasing trend.

The fins of this species are highly prized in western Africa (100 Euro/kg), so this species is a major target species of artisanal fisheries. Abundance and size of individuals have decreased throughout its West African range. It is caught as bycatch by the shrimp trawl fishery in shallow inshore waters, and this has caused large decreases in catch and probable extirpation in some areas. In Senegal, for example, landings have decreased from 4,050 tons per year in 1998 to 821 tons per year in 2005; the actual fishing pressure on this species is likely to be higher because of the lack of reporting in artisanal fisheries in West Africa and the number of foreign vessels fishing legally and illegally within this region. It used to be a typical resident in the Balearic Islands, but now has become extinct locally, and it appears to be locally extirpated from the Alboran to the Aegean Sea. *Rhinobatos cemiculus* is one of the main targets of specialized fishing teams in Guinea-Bissau. Even in areas outside the closure areas, the reduction in size has continued, indicating catches of younger specimens. Within the closed areas this species is still caught as bycatch in teleost gillnet fisheries. In Guinea-Conakry, fishing is allowed year-round, and catches are higher during the species' birthing and mating season, when they congregate. Gravid females are specifically targeted for the large size of their fins, and finning of embryos has been reported.

No active conservation measures are in place in the Mediterranean for *R. cemiculus.* In Mauritania, the species has been protected since 2003 as part of a ban on directly targeted elasmobranch fishing in the Banc d'Arguin, and in Guinea-Bissau, three marine protected areas have been established. However, *R. cemiculus* is still caught as bycatch in other fisheries in these areas. No species-specific regulations exist for the management of shark and shark fisheries in the Sierra Leone.

While the petitioner presents little species-specific fisheries catch data, it presents substantial information that fishing pressure is high on this species, and that this pressure has already led to declines in population, declines in size, and local extirpations in certain areas. The targeted fishing during the mating and spawning times of this species may present a significant threat to this species. Species-specific conservation measures and regulations are lacking. Therefore, we find that the petition presents substantial scientific information indicating that the petitioned action of listing *R. cemiculus* as threatened or endangered may be warranted.

Rhinobatos horkelii

According to the petitioner and the IUCN assessment for *R. horkelii,* this coastal species is distributed along the Brazilian coast and farther south to Mar del Plata, Argentina (Lessa and Vooren, 2007). Adults migrate to coastal waters with depths of less than 20 m from November to March. Litter size is 4 to12 pups, with more pups produced by larger mothers. Pregnancy is in two stages (dormancy from April to November in deeper, colder water, and embryonic development from December to February in warmer shallow waters), with 1-cm embryos observed in December and 29-cm embryos in February. Females reach full maturity at 9 years of age, males at 6 years of age. Its population size is unknown, and it has a decreasing trend.

Fishing is the main threat to this species. Southern Brazilian fisheries show total landings increased from 842 t in 1975 to 1,804 t in 1984, then declined continuously to 157 t in 2001.

The average trawl CPUE of this species in southern Brazil in 1993–1999 was 17 percent of that observed during the period 1975–1986, indicating a decline in abundance of more than 80 percent since 1986 (Miranda and Vooren, 2003; Vooren *et al.*, 2005). Catches increased slightly after 2000, when trawl fleets from southern Brazil exploited refuge area for a part of this species' population (Martins and Schwingel, 2003; Vooren *et al.*, 2005). After that, CPUE fell again by 31 percent from 2002 to 2003, and the population is considered to be at critically low levels, and it is scarce in coastal waters (Vooren *et al.*, 2005). Catches now consist mostly of juveniles with likely only smaller mature individuals being caught, meaning fewer pups per reproductive cycle per mature guitarfish. Similar to the *R. cemiculus,* the *R. horkelii* is targeted by artisanal fisheries during its birthing aggregations, with catches comprising 98 percent pregnant females during this time.

Permits for directed fishing are no longer issued, and bycatch must be thrown overboard, but these laws are not effectively enforced. Regardless, bycaught animals are often dead by the time they are brought up to the surface. Trawl fishing within 3 nm of the coast of southern Brazil is prohibited, but this represents protection from only one of the fishing threats.

The decrease in CPUE, the species' high age at maturity, the correlation between age of females and number of pups, the species' low fecundity combined with its vulnerability to fishing because of predictable annual mating and birthing aggregations and the lack of effective regulatory mechanisms may put this species at risk of extinction. Therefore, we find that the petition presents substantial scientific information indicating that the petitioned action of listing *R. horkelii* as threatened or endangered may be warranted.

Rhinobatos rhinobatos

According to the petitioner and the IUCN assessment for *R. rhinobatos,* this species is distributed in the Atlantic from the southern Bay of Biscay southward to Angola, and in the Mediterranean where it prefers the warmer waters of the southern and eastern regions (Notarbartolo di Sciara *et al.*, 2007b). It is demersal and found in shallow waters in the intertidal zone to depths of 180 m, over sandy, muddy, shell and occasionally micro-algal covered substrates. It swims slowly along the sea bottom or partially buries itself under the substrate, feeding upon benthic invertebrates and fish. It is viviparous, with no placenta, and it produces 4 to 6 pups per litter, and 1 to 2 litters per year per female, and its gestation period is 4 months. Neither the age at maturity nor the longevity is known for either sex. Its population size is unknown, and it has a decreasing trend. While little is known about the population sizes of this species, there has been a marked decline in its abundance in the northern regions of the Mediterranean.

The species is likely threatened by habitat degradation in its nursery grounds. Fishing occurs throughout most of its range. Like *R. cemiculus*, it was historically common throughout the northern Mediterranean, but absent from the recent Mediterranean International Trawl Survey, suggesting extirpation there. It is still present in the catch in portions of the southern shore, and potentially elsewhere along the Mediterranean African coast, but a large proportion of those catches are immature juveniles. It is caught as common bycatch of shrimp trawl fisheries in the eastern Atlantic. It is also caught in artisanal bottom set fisheries in Sierra Leone and dried for export to Ghana for human consumption. There is evidence of population declines in the eastern Atlantic. In Senegal, for example, the landings of all guitarfishes have decreased dramatically, with landings peaking in 1997 at 4,218 t and gradually decreasing to an estimated 821 t in 2005. In Guinea-Bissau, this species is one of the main targets of specialized shark fishing teams, and recent surveys indicate that its populations have diminished substantially (Fowler *et al.*, 2005). Recent changes in mesh net size in the area will result in higher catch of juveniles. It is still caught incidentally as bycatch in teleost gillnet fisheries and industrial demersal trawl fisheries targeting cephalops and crustaceans and coastal teleosts. It is reportedly common in Sierra Leone, caught as bycatch of shrimp trawl fisheries operating in shallow inshore waters. It is frequently captured in Gambia (A. Mendy pers. comm., 2006).

There are no species-specific conservation measures. In Mauritania, there is a ban on directly targeted elasmobranch fishing in the Banc d'Arguin, and *R. rhinobatos* is more abundant there, comprising 2 percent of the shark catch in 2004. In Guinea-Bissau, three marine protected areas have been established. However, the *R. cemiculus* is still caught as bycatch in other fisheries in these areas.

Given the likely extirpation of this species in the northern Mediterranean, evidence of population declines in the eastern Atlantic, the continued fishing pressure on the species, and the lack of species-specific conservation measures, we find that the petition presents substantial scientific information indicating that the petitioned action of listing *R. rhinobatos* as threatened or endangered may be warranted.

Trygonorrhina melaleuca

According to the petitioner and the IUCN assessment for *T. melaleuca,* not much is known about this species, as it is known only from a few specimens taken in shallow water in St. Vincent's Gulf in Southern Australia, and its extent of occurrence is estimated at less than 5,000 km² (Stevens, 2009). The largest specimen measured 90 cm. While this species may be a mutant form of the Southern fiddler ray, until further systematic studies can be carried out, the two forms are considered valid species. Its population size and population trend are unknown.

The petitioner asserts that recreational and commercial fishing occur in this species' area of occurrence, and the species is susceptible to trawl, hook, and net fisheries. Further, the petitioner points out that the species is rare in shallow water, so any bycatch is of concern. No conservation measures are in place for this species.

The condition of being rare is an important factor to consider when evaluating a species' risk of extinction; however, it does not by itself indicate the likelihood of extinction of that species, nor does the condition of being rare constitute substantial information that listing under the ESA may be warranted. To determine whether listing of a rare species may be warranted, there must also be substantial information indicating the rare species is both exposed to and responding in a negative fashion to a threat such that the species may be threatened with extinction. While the petitioner notes that recreational and commercial fishing occur in this species' area of occurrence, it provides no catch data, and we have no way of evaluating whether the species is impacted by fishing. We had no information on *T. melaleuca* or threats to the species in our own files. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *T. melaleuca.*

Threats to the Bony Fishes

The 15 bony fish species petitioned for listing (*Colpichthys hubbsi,*

Latimeria chalumnae, Tomicodon abuelorum, Pterapogon kauderni, Halichoeres socialis, Paraclinus magdalenae, Paraclinus walkeri, Chaetodontoplus vanderloosi, Azurina eupalama, Scarus trispinosus, Argyrosomus hololepidotus, Mycteroperca fusca, Mycteroperca jordani, Paralabrax albomaculatus, and *Enneapterygius namarrgon*) are currently listed as either "endangered" or "critically endangered" on the IUCN Red List. The petition asserts that these species are being threatened with extinction by four of the five ESA section 4(a)(1) factors—habitat destruction, overutilization, inadequacy of regulatory mechanisms, and natural factors—which we discuss in turn below.

The introductory threats discussion is general, with only occasional references to specific petitioned species, with the threats later repeated in the species-specific section (discussed below). Some of the general threats discussion is not clearly or causally linked to the petitioned species (e.g., discussion of dead zones yet no identification that these occur in the petitioned species' ranges; discussion of the threat of climate change in general terms without showing how it affects particular species; and discussion of mangrove removal as causing a species to be threatened or endangered, without providing any population size or trend information for the species). The petition also references worldwide human population growth as a threat for all of the petitioned species. However, a rising human population by itself may not necessarily be a threat to a species, if, for instance, human activities are managed such that habitat is preserved or species are not over-exploited. Similarly, human-mediated threats can occur at a level that renders a species in danger of extinction in the absence of a growing human population. Thus, information that the human population is growing, on its own, does not indicate that the growing human population is a threat.

In the regulatory mechanisms discussion, the petitioner argues that there are no adequate regulatory mechanisms for the petitioned bony fishes. Only one of the petitioned bony fishes has a stable population trend, though it is still subject to significant threats, and none of the petitioned bony fishes is characterized as having an increasing population.

The petition notes that only one fish species (*Latimeria chalumnae*) is listed on CITES Appendix I, and it references the limitations inherent in CITES listings from the coral section of the petition. According to Article I of CITES, species listed on Appendix I are those that are the most endangered among CITES-listed animals and plants; they are threatened with extinction and CITES prohibits international trade in specimens of these species except when the purpose of the import is not commercial, for instance, for scientific research. Based on the CITES definitions and standards for listing species on Appendix I, the species' actual listing on Appendix I is not itself an inherent indication that these species may now warrant threatened or endangered status under the ESA. Species classifications under CITES and the ESA are not equivalent, and criteria used to evaluate species are not the same. The petitioner also makes generalized statements about MPAs and other measures of protections in this section, mentioning some of the limitations of these MPAs for the five petitioned bony fishes with portions of their ranges in an MPA (*Mycteroperca jordani, Chaetodontoplus vanderloosi, Paralabrax albomaculatus, Azurina eupalama, Paraclinus walker*). We do not consider these general and unsubstantiated statements as substantial information that listing may be warranted due to an inadequacy of regulatory mechanisms for all of the petitioned species. Where the petition provides species-specific information on this threat, that information is considered in the individual species sections below.

The petition discusses the very small geographic ranges and limited dispersal ability of several petitioned bony fishes (e.g., *Halichoeres socialis, Latimeria chalumnae*), arguing that a very small range increases the extinction risk of the species because the entire species could be affected by local events and limited dispersal ability can decrease the potential for recolonization following the loss of a subpopulation or area of habitat. The petition notes that several of the petitioned bony fishes are already at risk as low-fecundity or K-selected species, rendering them even more vulnerable to synergistic impacts of multiple threats. Despite this, we do not consider these natural factors alone to constitute substantial information that listing under the ESA may be warranted. There must be additional information to indicate that the species may be exposed to and respond in a negative fashion to a threat. For example, in the case of *L. chalumnae*, which we discuss further below, information is presented to suggest that the petitioned species may have been extirpated from some areas, and estimated population size is low enough to suggest that this extirpation, in combination with other threats, may be contributing to the extinction risk of this species. These biological and ecological factors are examined on a species-specific basis below, if information is available.

Overall, we find that the four major threats discussed for bony fishes in the introductory section of the petition are not well supported and/or substantiated and do not necessarily constitute substantial information that listing any of the 15 species may be warranted. While the information in this introductory section is otherwise largely accurate and suggests concern for the status of fishes in general, the broad statements and generalizations of threats for all petitioned bony fish species do not constitute substantial information that listing may be warranted for any of the petitioned species. There is little information in this introductory section indicating that particular petitioned species may be responding in a negative fashion to any of the discussed threats. We will consider the few instances in the introductory section that specifically link threats to a particular petitioned species in our discussion of threats to that particular species.

Colpichthys hubbsi

According to the petitioner and the IUCN assessment for *C. hubbsi*, this species is endemic to the Eastern Pacific, found only in the uppermost part of the Gulf of California and the Colorado River Delta (Findley *et al.*, 2010). Its extent of occurrence is 5,000 km^2, but its area of occupancy is unknown. It occurs in shallow water over mud and over muddy sandy substrates, to depths of 4 m. Adults feed on crustaceans and gastropods. The petition provides no information on population size or trend.

The petition asserts that this species is threatened by all five of the ESA section 4(a)(1) factors. Threats under the first factor, "present or threatened destruction, modification, or curtailment of habitat or range," include cessation of flow from the Colorado River, coastal development and climate change, sedimentation and general water quality, and tidal power development. The petition discusses each of these in a general way, but it does not provide information to indicate that *C. hubbsi* is negatively affected by these threats. Since this species likely has an extremely restricted geographic range, the petition asserts that the lack of flow from the Colorado River resulting from dam construction, population growth, and climate change has turned the river into a desert,

endangering dozens of species. The petition states that habitat degradation will only get worse as climate change is predicted to further reduce runoff by 10–30 percent by 2050 (Waterman, 2012). It also states that the El Borrascoso area of the species' northern Gulf of California habitat is threatened by planned development that will destroy offshore habitat through dredging and destroy geologic outcrops with construction activity. The petition also notes that shrimp mariculture and increased growth of coastal cities will destroy coastal habitat, resulting in an increase in construction projects, dredging of harbors and shipping channels, dumping of waste, run-off pollution and increased sedimentation, deforestation, and increased tourism. According to the petition, climate change is expected to further magnify these coastal pollution problems, increasing eutrophication, hypoxia, and anoxia and resulting in more "dead zones." Similarly, the decreased water quality caused by agricultural runoff and the decrease in needed sediments are cited as cause for concern about this species' habitat. The petition also notes that potential development of tidal power, if implemented, will result in severe impacts and irreversible loss of the Upper Gulf habitat. As with other species accounts, the petitioner cites Zamora-Arroyo *et al.* (2005) to support its assertion that, "[i]n the case of habitat destruction resulting from coastal development, the severity of impacts is high with low reversibility." While all of these threats are of concern to an ecosystem, nothing in the petition indicates whether or how *C. hubbsi* is affected by these threats.

Threats under the second section 4(a)(1) factor, "overutilization for commercial, recreational, scientific, or educational purposes," include unsustainable trawling and artisanal fishing of *C. hubbsi*'s prey (benthic fauna) and shrimp farming that may cause mortality of estuarine organisms at water intake screens and increase eutrophication from pond effluent discharge into coastal areas. Again, the petition provides no information indicating whether or how these threats affect *C. hubbsi.*

Under the third section 4(a)(1) factor, "disease or predation," the petition asserts that shrimp farming in *C. hubbsi*'s range causes increased threat of disease when disease and viral pathogens from the ponds escape to the open Gulf. Also, this threat is likely to increase as development of the coasts adjacent to its range continues. However, no information is provided on whether or how disease from shrimp farming is affecting the *C. hubbsi.*

Under the fourth section 4(a)(1) factor, "inadequacy of existing regulatory mechanisms," the petition notes that no species-specific conservation measures are in place for this species. The species is found in the Colorado River Delta Biosphere Reserve, but the petition asserts that, while this location does extend the species some level of protection, it is inadequate because it does nothing to remove the upstream dams stopping water from reaching the Gulf of California, increase the amount of water that they release, stop climate change from further reducing river flow, or stop shrimp aquaculture projects from threatening the species. We do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. Again, we look for substantial information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Finally, under the fifth section 4(a)(1) factor, "other natural or manmade factors affecting its continued existence," the petition notes that the synergistic effects of the aforementioned threats could conspire to cause the extinction of the species.

As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *C. hubbsi* or threats to the species. After evaluating the information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *C. hubbsi.*

Latimeria chalumnae

According to the petitioner and the IUCN assessment for *L. chalumnae,* based on fossil evidence, this species was once global (Musick, 2000). It was believed to be extinct until the 20th century, when the first live specimen was found in 1938. It is now found off the coast of southeastern Africa, primarily at the Comoros Islands, northwest of Madagascar and east of Tanzania, with scattered populations and individuals found off the northern tip of Tanzania and off the coasts of Madagascar, South Africa, and Mozambique. The first specimen of another coelacanth species (*L. menadoensis)* that likely shares the same ancestor with *L. chalumnae* was found in Indonesian waters in 1998.

Latimeria chalumnae inhabits deep-sea caves and overhangs near vertical marine reefs, about 200 m below the surface, off newly formed volcanic islands, in water temperatures of 18–23 °C. It survives only a few hours in captivity or in shallow waters. Its lifespan is estimated to be between 80 and 100 years, though another estimate is 60 years. It is ovoviviparous, and based on two pregnant specimens, its fecundity is between 5 and 26 pups. Its long gestation period of 3 years is the longest of any vertebrate, and its age at maturity is 16 years for females.

The Comoran population size was estimated to be about 500 in 2008 (Dinofish, Undated), though the petition stated it was less than 500. According to Browne (1995), Fricke, in a then recent issue of the journal *Nature,* reported that he believed there were about 200 coelacanths along a 5-mile stretch of the Grande Comore coast, where the only known community of substantial size lives. The population trend is unknown. However, there is some evidence that over a 3-year period (1991–1994), the average number of *L. chalumnae* per cave off the Comoros fell from 20.5 to 6.5 (Browne, 1995, reporting on Fricke's annual submersible census of this area that had begun in 1989). The petitioner did not provide us with the Fricke report in *Nature,* nor did we have a copy of it in our files to review.

The petition asserts that this species is threatened by four of the five ESA section 4(a)(1) factors. Under the first factor, "the present or threatened destruction, modification, or curtailment of habitat or range," the petition notes that the massive increases in human population numbers in East African countries are resulting in degraded habitat through damaging agricultural practices, overgrazing, deforestation, destruction of wetlands, and mining. All of these practices, according to the petition, increase the load of silt moving off the coast and into *L. chalumnae* coastal habitat. The petition goes on to note that scientists have established that *L. chalumnae* individual are loyal to a particular home range, living there for over 14 years (Fricke, 2001), and that this range likely covers a mere several kilometers of coastline. This, according to the petition, means that *L. chalumnae*

individuals are unlikely to be able to leave habitat degraded by siltation, and they may experience local extinctions based on this impact. Finally, the petition cites Green *et al.* (2009) as support for its statement that bathymetric methods to identify potential habitat for *L. chalumnae* have had disappointing results with little success, and therefore, it appears that scientists may have found most or all of the existing *L. chalumnae* and that habitat loss threatening those individuals could cause total extinction of the species.

Under the second ESA section 4(a)(1) factor, ''overutilization for commercial, recreational, scientific, or educational purposes,'' the petition contends that *L. chalumnae* is being captured for trophies, scientific research, televised entertainment, notochordial fluid for Asian longevity serums, and accidental capture as bycatch (Froese and Palomeres, 1999). *Latimeria chalumnae* can be sold legally only to the Comorian government at an official price of $150, more than 1½ times the average Comorian yearly income (Joyce, 1989). But more recently, the black market price for this species is $2,000, more than 20 years' worth of income for the average Comorian. Even more recently, the price seems to have risen to $4,500 per dead specimen. This species' meat is unpalatable, but there is evidence of a black market trade by private collectors and a market among museums and scientists for specimens (Joyce, 1989; SGForums, 2006; Monster Fish Keepers, 2009; Maybe Now, Undated; Nicholson, Undated). No individual *L. chalumnae* has survived for more than 20 hours at the surface, given the difference in pressure and oxygen present at shallow depths (Prehistoric Wildlife, Undated; Joyce, 1989). There was also interest in acquiring this species to create a longevity serum from its notochordial fluid; while the 1987 study showing that the fluid promoted long life has been debunked, it is still possible that the practice continues (Joyce, 1989; Fricke, 2001). Perhaps the biggest threat to this species is bycatch by fishers fishing in known coelacanth habitat (Fricke, 2001) because this type of fishing is a substantial industry in these rural communities. While there have been efforts to find ways to return *L. chalumnae* individuals to the ocean alive after capture, the actual state of affairs is that, because it is illegal to land the fish, fishers usually kill it and throw it away (Browne, 1995). Finally, because these fish are seen as fish that have come alive from the fossil record, they are sought after as a trophy (Froese and Palomeres, 1999). Therefore, the petition contends that commercial overutilization represents a significant threat to this species.

Under the fourth ESA section 4(a)(1) factor, the petition asserts that national, local, and international efforts to protect this species are insufficient. The petition states that the Comoros Islands national ban on landing *L. chalumnae* does nothing to prevent bycatch, which is fatal. The petition goes on to say that other countries within *L. chalumnae's* range do not have similar regulations. It notes that the Islamic Sunni of at least 11 villages on the island of Grand Comoro have adopted this species, so anyone who hurts it in any way ''violates the code of the Sunni and is shunned by the community'' (Fricke, 2001). However, the petition points out that this does not address bycatch of the species, nor does it cover other areas of its habitat. Finally, the petition asserts that, while this species is listed in CITES Appendix 1, this listing is neither effective at deterring catches in the rural fishing villages near the species' habitat where villagers likely do not know of the restriction and may not intend on shipping the captured fish out of the country, nor could it deter unintentional bycatch.

Finally, under the fifth ESA section 4(a)(1) factor, ''other natural or manmade factors affecting its continued existence,'' the petition points to breeding issues resulting from an estimated population size of less than 500 individuals. Given *L. chalumnae's* low population size, the petition asserts that the species is threatened by stochastic events and the low likelihood of males and females encountering each other frequently enough to breed successfully. This is exacerbated by the low fecundity of this species and the extremely long gestation period (3 years). This, together with the late age at first maturity (16 years for females), means that females cannot produce a litter of pups until they are about 19 years old. The petition contends that these factors exacerbate the species' extinction risk.

Springer (1998) hypothesized that, at some earlier time, the ancestor of the present coelacanth species must have had a more-or-less continuous distribution that was interrupted later by a barrier. During the late Jurassic (ca. 140 Mya), just prior to the beginning of the breakup of the southern continents (Audley-Charles *et al.*, 1981, figure 3.3, as cited in Springer, 1998), Africa, Madagascar, Antarctica, and Australia were united, and Africa was linked northwards with the Eurasian plate. The distribution of ancestral *Latimeria* was more-or-less continuous along the coasts of these massed continental blocks. India separated from Madagascar and began its move north in the early Cretaceous (140–120 Mya; Audley-Charles *et al.*, 1981, figure 3.4, as cited in Springer, 1998), possibly carrying coelacanths with it. Madagascar separated from Africa shortly thereafter, but its separation ceased by magnetic anomaly 2 (ca. 115 Mya; Besse and Courtillot, 1988, as cited in Springer, 1998; however, Rabinowitz *et al.*, 1983, as cited in Springer, 1998, propose that Madagascar began separating from Africa about 180 Mya and ceased at 120 Mya). India continued its 'flight' north and began colliding with the Eurasian plate in the Eocene (40–50 Mya; Audley-Charles *et al.*, 1981, figure 3.8, as cited in Springer, 1998). Continuous and still continuing movement of India into the Eurasian plate caused the building of the Himalayan Mountains, which resulted in the formation of many great rivers that flooded into the Indian Ocean down both coasts of India and the coast of Burma (e.g., the Indus, Ganges, and the Ayeyerwady (Irawaddy)). The heavy siltation covered the bottom, both near shore and deeply offshore, and eliminated habitats suitable for *Latimeria*. India thus formed a barrier between coelacanth populations in Africa-Madagascar and those in Malaysia-Indonesia. If this hypothesis is correct, the siltation from the damaging agricultural practices, overgrazing, deforestation, destruction of wetlands, and mining resulting from an increasing population in East African countries could negatively affect *L. chalumnae* habitat.

While it is possible, as the petition asserts, that most existing *L. chalumnae* individuals have been found, it is not likely. Our review of Green *et al.* (2009) does not leave us with the same impression about the success of the efforts to identify potential *L. chalumnae* habitat. In fact, it appears that Green *et al.* (2009) was able to use bathymetric methods to identify several areas where the species is likely to be found, as well as identify other areas that should be investigated because of the likelihood of finding similar habitat. As Green *et al.* (2009) states,

> the extent of the coelacanth distribution in the western Indian Ocean covers a considerable area, making the search for further elusive coelacanth populations a daunting task. The area of interest extends northwards along the eastern coast of South Africa from East London to Mozambique and Tanzania—as far north as the Tanzanian-Kenyan border, and the entire coastline of Madagascar (Green *et al.*, 2009). Specific target sites for coelacanth habitation using

geophysical data have been identified for the continental shelf off the Port Shepstone-Port St Johns stretch of coastline. Northern Mozambique, between Olumbe and Port Amelia, is considered another potential target site, based on the similarity of the submarine canyons to those of Sodwana Bay. Canyon size, depth of incision and the position of the canyon heads, relative to the shelf break, mirror those of the Sodwana Bay canyons. As this is a preliminary study it is recommended that higher resolution multibeam echosounding be undertaken in these areas in order to more accurately identify the features considered most likely to support a coelacanth population. These would be based on the presence of caves, overhangs and notches that coelacanths are known to inhabit. It must also be emphasized that despite poor coverage of areas such as Tanzania and Madagascar, these should not be excluded as potential sites for further, more detailed exploration.

We do not have any information subsequent to Green *et al.* (2009) to indicate whether this work has continued, but given the progress reported by Green *et al.* (2009), we conclude that it is highly unlikely that most individuals of *L. chalumnae* have been found.

The petition stated that the estimated decline in number of *L. chalumnae* per cave over a period of 3 years (1991–1994) described by Brown (1995) indicates a massive reduction in the population, but it did not provide census numbers to which we can compare the most recent 2008 population size estimate of 500 (even though it seems that Fricke was conducting annual census surveys beginning in 1989). Therefore, it is not clear whether this most recent population size estimate of 500 is higher, lower, or the same as the 1991 or 1994 population size. If the population size of the Comoran population in 1991 was about 500, it is possible that the decline noted by Brown (1995) is the result of a natural population fluctuation or an emigration of *L. chalumnae* individuals away from the survey area (Brown, 1995). However, even a population size of 500 individuals is relatively small. Further, while it is possible that more *L. chalumnae* habitat will be identified and more individuals found, it is possible that the population size will not be significantly higher. Given the number and level of threats that exist (i.e., low population size estimate of 500, likelihood of increased siltation loads with increased coastal development in eastern Africa, the species' 3-year gestation period, fishing bycatch, the curio/trophy trade, and the inadequacy of regulatory mechanisms), we find that the petition presents substantial scientific information indicating that the petitioned action of listing *L. chalumnae* as threatened or endangered may be warranted. The petition also requested that, if we list this species as threatened or endangered, we also list *L. menadoensis* based on similarity of appearance. If, after conducting a status review of *L. chalumnae,* we determine that it is threatened or endangered under the ESA and list it as such, we will make a determination on this "similarity of appearance" request at a later date.

Tomicodon abuelorum

According to the petitioner and the IUCN assessment for *T. abuelorum,* this species is endemic to the Eastern Central Pacific, where it is known from the Gulf of Nicoya, Costa Rica, to Darien, in the Gulf of Panama (Hastings and Dominici-Arosemena, 2010). It is found only in areas with Rhizophora mangrove prop roots where it is usually attached to root surfaces or moving about and feeding from them at high tide. Juveniles have been recorded from floating mangrove leaves, which they may use as a dispersal mechanism into the mangrove root systems. The diet of *T. abuelorum* consists of barnacle cirri and barnacle cyprid larvae, small oysters and other bivalves, amphipods, and harpacticoid copepods. The species is fairly common in suitable mangrove habitat, with a mean density of about 0.8–1.4 fish per mangrove root. It is found year-round (Szelistowski, 1990). It is a highly fecund species, as Szelistowski (1990) found females as small as 18 mm to possess paired gonads with developing eggs, and three specimens between 19–26 mm with ovaries containing 156–211 eggs. However, according to the petition and IUCN assessment, this species is currently in decline because of extensive mangrove extraction throughout its range (Jiménez, 1994; FAO, 2007). As of 2000, the area of mangroves remaining in Costa Rica and Panama combined was estimated to be only about 2,000 km^2. Further review of FAO (2007) indicates that the annual change in mangrove area in Costa Rica during the periods 1980–1990, 1990–2000, and 2000–2005 was −1.7, −2.4, and −0.4 percent, respectively, and in Panama, −2.7, −0.8, and −0.5 percent, respectively (FAO, 2007). The petition cites Ferreira *et al.* (2005) when it includes the following quote, "Surveys in other regions show that the reduction of mangroves brought some fish species to extinction * * *" The petition acknowledges that this species' habitat overlaps with several MPAs, but despite this, it asserts that the species is still endangered with populations decreasing. To assert this population trend, it cites the IUCN assessment, which simply states that the population trend of this species is decreasing, without providing any references.

As noted above, the petition provides little support for its assertion that the population trend of this species is decreasing, and *T. abuelorum* is fairly common in suitable mangrove habitat. Also, in reviewing Ferreira *et al.* (2005), we did not find the quote that the petition cited regarding extinction of a parrotfish in Brazil. Ferreira *et al.* (2005) actually stated, "Spearfishing of adults has probably excerpted [sic] a strong influence on the extirpation of this fish from Brazilian reefs. In addition, juvenile *S. guacamaia* have strong functional dependency on mangroves (Mumby *et al.* 2004). Local extinction of *S. guacamaia* following mangrove removal and overfishing in the Caribbean (Mumby *et al.* 2004) suggests that the same process might have facilitated the extinction process in Brazil." This paper referred to local extirpation, not extinction, and the cause was suspected to be a combination of overfishing and mangrove removal, not only mangrove removal. The petition provided no information on fishing threats that might combine with habitat threats to cause extinction risk to *T. abuelorum.*

While it appears that *T. abuelorum* is found only in mangrove areas that have undergone significant reductions (1980–2005), the last 5 years of this data series indicate that mangrove losses in Costa Rica and Panama have slowed down (FAO, 2007). We have no information in our files on the status or trend of *T. abuelorum.* As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. After evaluating the information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *T. abuelorum.*

Pterapogon kauderni

According to the petitioner and the IUCN assessment for *P. kauderni,* this species has a restricted range and is endemic only to the Banggai

Archipelago, which lies in the Banggai-Sula platform in eastern Indonesia (Allen and Donaldson, 2007). Its geographic range is about 5,500 km^2, but within this range, maximum potential available habitat is much smaller (about 426 km of coastline extending from the shore to about 100 m off the coast (so, only about 34 km^2). It has been recorded at 17 of the 20 major islands and at 10 of the 27 minor islands. It occurs primarily in shallow sheltered bays and harbors, mainly on reef flats with sandy bottoms and sea grass beds, and it is found in 0.5–6 m depths, but most commonly found between 1.5–2.5 m depths. It is most common in calm habitats on the protected side of larger islands. Juveniles associate with sea grasses, sea urchins, sea stars, sea anemones, soft corals, and corals; adults shelter between the spines of sea urchins but also among anemones, corals, stony hydrozoans, rocks and artificial structures such as jetties. According to census work, 43.7 percent of the groups are associated with hard corals. *Pterapogon kauderni* is a diurnal carnivore-planktivore that feeds principally upon copepods, but also a generalist opportunistic species. It has a relatively short life span, matures at an average age of 0.8 years, and has a generation length of 1.5 years.

In early population surveys, this species had been identified on 27 out of 50 islands. Based on average population density from these initial surveys, its total population size was estimated at 2.4 million fish in 2004 (Vagelli, 2005). It has the highest degree of population structure in a marine fish; this genetic isolation is likely a result of the lack of suitable habitats between subpopulations coupled with the species' lack of dispersal mechanisms. According to the IUCN assessment, *P. kauderni* has a decreasing trend, based on comparisons of density estimates in unprotected sites conducted in 2004 (mean density of 0.07 individuals/m^2) to a historical baseline density of a subpopulation localized inside a bay in Southwest Banggai Island which has been off limits to all fishing since before the beginning of the trade (0.63 individuals/m^2).

The petition asserts that local threats to the species include habitat degradation (harbor dredging and associated pollution; sedimentation; harvest of its habitat (corals and anemones) for the aquarium trade; coral bleaching; inability of *P. kauderni* to move to new areas on its own when sea temperature rises; disappearance of corals because of global climate change; pollution and contaminants that threaten the Luwuk subpopulation), overutilization (aquarium trade), disease (4 parasite types; viral disease) and predation, the inadequacy of regulatory mechanisms (e.g., no concerted effort to replace wild-caught fish with captive-bred fish for the aquarium industry; despite tracking of exported fish by the Indonesian government, it is lumped in the "aquarium fish" category; local bans by private owners of bays and villages offer some protection, but bans are seemingly driven by private interests such as pearl collection or disputes with outside collectors; lack of CITES listing), and other natural or manmade factors (low fecundity; parental care; elevated level of energy investment per offspring; direct development; lengthy oral incubation period; susceptibility to indiscriminate collecting; lack of dispersal mechanisms; frequent earthquakes). The petition adds that synergistic effects of these threats also contribute to the species' risk of extinction.

The petition argues that the United States represents one of the largest importers of wild-caught *P. kauderni*, making an ESA listing particularly effective.

Some of the threats identified by the petition are too general and not supported with specific information on whether or how the threat would affect *P. kauderni* (harbor dredging and associated pollution; sedimentation; harvest of its habitat (corals and anemones) for the aquarium trade; disease and predation; frequent earthquakes). Broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on these threats with regard to *P. kauderni*.

However, we have additional information in our files, including a Species Survival Network fact sheet (undated) that discusses data obtained in March 2007 indicating exports from local fishers have increased to one million fish annually (Vagelli, 2007), not including fish captured by larger fishing boats based in Bali. This evidence indicates that a minimum of 55 percent of captured fish die or are discarded due to injury or damage prior to international export. Also, to demonstrate significant changes in the health and vigor of coral populations and fish diversity within reef habitat, this fact sheet reports that, during the March 2007 census, extensive areas of coral reef habitat were found to be covered with algae, a fungus, or a bacteria making them unsuitable as habitat for the Banggai cardinalfish and other fish species (Vagelli, 2007). The fact sheet adds that no certification system for those collecting the Banggai cardinalfish has been established and, according to the Indonesian representative of the Marine Aquarium Council, no such system is being contemplated at this time (Vagelli, 2007). Finally, the fact sheet notes that, while the species can be bred in captivity, no captive breeding projects are in place and not a single village in the Banggai Archipelago is presently considering such a project (Vagelli, 2007).

We also have a copy of CoP14 Inf. 37, Additional Information on Biological and Trade Criteria in Support of an Appendix-II Listing for the Banggai Cardinalfish, *Pterapogon kauderni*, which includes information compiled by the United States through consultations and new information gleaned from March 2007 surveys conducted by Dr. Alejandro Vagelli (Vagelli, 2007). In discussing extent of trade, the United States notes that FAO's estimate that a minimum cumulative catch of 19.2 million over the duration of the fishery would be required to reduce a population of 21.6 million fish to 2.4 million, based on a worst case assessment of a population without a density dependent response, is unrealistic, as it does not take into account the effects of removal of individual fish on overall productivity of each subpopulation. Based on a conservative estimate, a single pair could produce 500 offspring in a lifetime, of which a maximum of 5–10 percent may survive to an adult life stage. Thus, annual removal of 700,000–900,000 fish will result in a much higher cumulative loss of fish due to the effects of this removal on annual production. The United States also notes that there are three principal collecting operations with an estimated current capture magnitude of at least 900,000 fish per year, based on assessments by Vagelli in 2007. This estimate is considerably higher than recent estimates as reported in the FAO panel review (500,000), and is not indicative of a decline in total harvest as suggested by Reksodihardjo-Lilley in the FAO review. While we agree with the conclusion that demand for these species may be 50–60 percent of the reported capture (500,000), the

estimates of mortality reported in the FAO review (10 percent) are much lower than that reported by collectors and exporters. Interviews with fishermen and buyers within the principal collecting operations reported mortality estimates of 25–30 percent and rejection of another 15 percent because of poor health (Vagelli, 2007).

Finally, we found an undated Defenders of Wildlife Final Report in our files that provides details on *P. kauderni* mortality during collection (25–50 percent), holding (50 percent), transportation (average of 25–30 percent, though occasionally as high as 50 percent), and rejection by buyers due to injury and damage to specimens (15 percent). This report also notes that, in captivity, *P. kauderni* commonly die from epidemics of iridoviruses (*Megalocytivirus*) (Weber *et al.,* 2009), and captured *P. kauderni* sold in the United States experience high infection levels of this virus (Weber *et al.,* 2009), with infection occurring post-capture at either export or import centers (Weber *et al.,* 2009). The high rate of injury, disease, and death creates a positive feedback loop driving more and more collection to compensate for supply-chain losses.

This report also summarizes new field survey information. Specifically, populations from Masoni Island, monitored since 2001, have experienced dramatic reductions (Vagelli, 2008). As of 2007, only 37 fish were found in the 4,800 m^2 Masoni Island survey area and only 150 fish could be found on the entire island (Vagelli, 2008). At Peleng Island, monitored since 2002, only 27 fish remained (Vagelli, 2008). At Bakakan Island the population size dropped from 6,000 individuals in 2001 to just 350 fish in the most recent surveys (Vagelli, 2008). Limbo Island has possibly experienced the most severe declines. In 2001, only 0.02 fish per m^2 could be located at Limbo Island (Vagelli, 2008). Almost no fish remained at Limbo Island by 2004 and the population has not recovered since then (Vagelli, 2008). By 2007 *P. kauderni* populations had been reduced by about 90 percent across the survey area (Vagelli, 2008). In addition to the threats posed by overfishing, *P. kauderni* have experienced population declines from several of the other problems imperiling Indonesia's coral reefs. Although *P. kauderni* is not targeted for collection by destructive fishing practices, its habitat is commonly degraded by dynamite fishing and cyanide fishing of other fish species (Indrawan, 1999; Lilley, 2008).

The petition presents a valid argument to show that densities of numerous subpopulations have decreased, and that *P. kauderni* may be threatened by overfishing and international trade pressure. Also, the population has apparently declined from 21.6 million fish to 2.4 million fish. Further, the estimated maximum potential available habitat within this range (34 km^2) is relatively small compared to its geographic range (5,500 km^2). Given these factors, the number and level of threats that exist (overfishing for the aquarium trade; inability of *P. kauderni* to move to new areas on its own when sea temperature rises; potential disappearance of corals because of global climate change; the inadequacy of regulatory mechanisms; and other natural or manmade factors such as low fecundity, parental care, elevated level of energy investment per offspring, lengthy oral incubation period, susceptibility to indiscriminate collecting, and lack of dispersal mechanisms), and the additional information in our files, we find that the petition presents substantial scientific information indicating that the petitioned action of listing *P. kauderni* as threatened or endangered may be warranted.

Halichoeres socialis

According to the petitioner and the IUCN assessment for *H. socialis,* this species is found only in the Pelican Keys, Belize, and it has an extremely small estimated range of less than 10 km^2 (Rocha *et al.,* 2010). Adults are reef associated, while juveniles are mangrove and shallow reef dependent. It is commonly found in shallow coral reefs over coral, sand, rubble, or sea grass substrata to a depth of 10 m. Juveniles feed on zooplankton and form evasive, compact schools when threatened. The petitioner did not provide any information on population size or trend. Juveniles are abundant where they occur, but adults are rarely observed.

The petitioner asserts that habitat destruction (continued extensive mangrove and coral removal and dredging for coastal resort development) is threatening this species, citing Zamora-Arroyo *et al.* (2005) to highlight that the severity of these coastal development impacts is high with low reversibility. Pelican Key, where this species occurs, is a World Heritage Site, but the petitioner contends that there is no actual protection afforded this species. The petitioner also notes that the lack of adult specimens observed likely means that there are few opportunities to breed, increasing the species' vulnerability to extinction. As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *H. socialis* or any specific threats it may face.

Upon review of Randall and Lobel (2003), cited by the petitioner, we note that these authors, who described this new species discovered in 1997, speculate that it had not been discovered before because of its occurrence in the limited area of reef and mangrove islet habitat confined to the Pelican Cays of Belize. Randall and Lobel (2003) expect it may be found at other comparable sheltered environments elsewhere along continental shores of the Caribbean Sea. They add that ichthyologists have not given this environment the same attention as they have other habitats such as coral reefs. Further, they note, because of its small size (less than 40 mm standard length), *H. socialis* may be easily mistaken with the juvenile phase of *H. pictus* (another labrid fish in the Caribbean Sea that is zooplanktivorous) by anyone not familiar with all labrids and their color morphs. Finally, Randall and Lobel (2003) note that this species is difficult to collect because it forms evasive schools instead of seeking shelter in the substratum. When the second author returned to the Pelican Cays to collect specimens of this species, he set up a barrier net and collected 102 specimens. Of the 49 fish used for the description, 46 were mature. We note that the petitioner stated adult individuals are rarely observed. There was no indication that it was difficult to collect this number or that efforts to collect more were made or were unsuccessful. For all these reasons, we find that it is likely that the species is more widespread than the petitioner contends, and it may be fairly abundant.

After evaluating the information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *H. socialis.*

Paraclinus magdalenae

According to the petitioner and the IUCN assessment for *P. magdalenae,* this species has a restricted range (1,131 km^2), and it is known only from a few

specimens found in the immediate vicinity of Magdalena Bay, Baja California, Mexico (McCosker *et al.*, 2010). Rosenblatt and Parr (1969) made 60 or more collections at appropriate depths between Cape San Lucas and Los Angeles Bay, Lower California, and did not find any specimens of this species in any of these areas. Based on this dated information, *P. magdalenae* is found at depths of 7–21 m, on rocky substrates. Upon review of Rosenblatt and Parr (1969), which was cited by the petitioner, it is interesting to note that the authors noted that the maximum depth of occurrence of this species is unknown, since diving techniques at the time allowed only very limited bottom time at depths much below 100 ft (30.5 m), and deep rocky areas therefore remained relatively unknown. They concluded that much more collecting would be necessary before confident statements could be made concerning the distribution of fishes characteristic of rocky shores at moderate depths, such as *P. magdalenae*. We have no information to indicate that any further sampling in this area or the areas nearby has taken place in the 45 years since Rosenblatt and Parr (1969) conducted their sampling. The petitioner provided no population information, but noted that the trend of this species is stable.

The petitioner asserts that habitat loss from coastal development, urban and industrial pollution, massive tourism development and various potentially harmful extractive activities in the Magdalena Bay Area poses a serious risk of extinction to this species because of its restricted range (Hastings and Fischer, 2001). Also, effluent, including untreated domestic sewage and industrial waste, is discharged directly into Magdalena Bay, and intertidal nearshore and wetland areas are being degraded (School for Field Studies, 2004). The petitioner again cites Zamora-Arroyo *et al.* (2005) to highlight the high severity of these impacts that have low reversibility. Localized human population growth, according to the petitioner, has a substantial negative effect on fish populations, especially human populations located near the coasts. The citations provided to support the petitioner's assertion that large number of people live close to the coastline, dead zones are increasing from urban pollution, and climate change is expected to further magnify these coastal pollution problems are not specific to the Magdalena Bay region or to *P. magdalenae*. Finally, the petitioner notes that there are no species-specific conservation measures in place for *P. magdalenae*, and this puts the species at increased risk of extinction.

While all of these threats are of concern to an ecosystem, nothing in the petition or its cited references indicates whether or how *P. magdalenae* is affected by these threats. For example, the Hastings and Fischer (2001) paper discusses management priorities for Magdalena Bay, given the current lack of a working resource management plan there, with little information on natural resources in the area; they do not mention *P. magdalenae*. As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. Further, we do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *P. magdalenae* numbers or threats to the species. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *P. magdalenae*.

Paraclinus walkeri

According to the petitioner and the IUCN assessment for *P. walkeri*, this species is endemic to the Eastern Pacific, known only from the 40 km² in Bahia San Quintín, Baja CA Sur, Mexico (Hastings and McCosker, 2010). It is found in shallow tide pools and upper reef flat to depths of 6 m, and it is considered to be very rare, though it was formerly considered to be common. No population or trend information is available.

The petitioner asserts that this species is threatened by habitat loss and degradation due to agricultural runoff and coastal development throughout its restricted range and cites Zamora-Arroyo *et al.* (2005) to highlight the high severity of these impacts that have low reversibility. While the species is located in protected habitat (Bahia de San Quintín), the petitioner asserts that this protection has been inadequate to protect the species, as evidenced by its rarity now. The petitioner notes that this is understandable because the protected habitat appears to include only the lagoon itself, whereas the threats to the species originate on land. Also, the location of the entire population in one small area leaves *P. walkeri* extremely vulnerable to localized events, further threatening the species, according to the petitioner.

While all of these threats are of concern to an ecosystem, nothing in the petition or its cited references indicates whether or how *P. walkeri* is affected by these threats. As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. Further, we do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *P. walkeri* numbers or threats to the species. Because Rosenblatt and Parr (1969), which is a description of the taxonomy, distribution, and variations of the eleven Pacific species of *Paraclinus*, was cited as support for the petition to list *P. magdalenae* (though not cited as support for the petition to list *P. walkeri*), that paper is now in our files; we note that these authors pointed out that none of the eleven Pacific species of *Paraclinus* have extensive bathymetric distributions. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *P. walkeri*.

Chaetodontoplus vanderloosi

According to the petitioner and the IUCN assessment for *C. vanderloosi*, this angelfish species has one of the smallest ranges of all known Indo-Pacific coral reef fish, only 275 km² between Samarai Island and the southeastern corner of Basilaki Island near Papua New Guinea (Allen, 2010). Its estimated area of occupancy is even smaller (about 15 km²). Allen (2010) states, "Despite extensive searching in other parts of Milne Bay Province (which includes approximately 265,000 km² of ocean) during five visits, it was only seen in a small area." According to Allen (2010), there has been a definite decline in population observed over the past 25 years (G. Allen pers. comm., 2010). Allen (2010) states that the total

population is thought to be less than 1,500 individuals, with decreasing trend, though we could not find any support for this estimate in the petition or in Allen (2010). Nor is any information on the extent of the "definite decline in population" available.

The petitioner asserts that this species is apparently associated with relatively cool temperatures, as Allen (1998) reported the occurrence of exceptionally low water temperatures (22–24 °C) in Milne Bay Province, compared to 26–28 °C in other parts of Milne Bay Province. While the petition notes that the threats to this species are not well understood, it states that the species is clearly dependent on a pattern of cool-water upwelling from the deep ocean, and climate-associated changes in ocean circulation and increasing temperatures may be responsible for the observed decrease in this species. Allen (2010) speculates that strong currents that sweep southward through narrow passes between islands may cause displacement of surface waters and consequent upwelling of colder water from below. The petitioner cites Brainard *et al.* (2011) to support its statement that ocean surface temperature will continue to rise. The petitioner also notes that no conservation measures are in place to protect *C. vanderloosi.*

It is not clear how much of a decline this species has undergone in the last 25 years. Nor is it clear how the petition or Allen (2010) came up with a population size estimate of less than 1,500 for *C. vanderloosi.* While it appears that this species prefers cooler temperatures, it is not clear that ocean warming will affect *C. vanderloosi* negatively. For example, Brainard *et al.* (2011, at p. 48) reported that, in comparing climate observations to models, "Wentz *et al.* (2007) found that global and tropical ocean winds have been increasing over the last 20 years (though slower in the tropics), in contrast to models that indicate winds will weaken. Along with these changes in winds, models and observations both show an increase in atmospheric water vapor and precipitation (Wentz *et al.*, 2007). Although these findings suggest that tropical wind-driven ocean currents will continue changing, the details about future directions and speeds of these surface currents remain insufficiently understood to adequately predict the potential influences to coral reefs generally or to the 82 candidate coral species in particular." Brainard *et al.* (2011, at p. 49) also state, "The conflicting patterns of circulation under future warming makes it difficult to assess the likelihood of various future circulation scenarios, mainly owing to poorly constrained model parameterizations and uncertainties in the response of ocean currents to greenhouse warming (McMullen and Jabbour, 2009)." We are convinced that surface water temperatures will increase with future global climate change. However, as is evident from these quotes from Brainard *et al.* (2011), we cannot predict ocean circulation patterns that will result from future climate changes, let alone how these changes might affect *C. vanderloosi.*

As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. Further, we do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *C. vanderloosi* numbers or threats to the species. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *C. vanderloosi.*

Azurina eupalama

According to the petitioner and the IUCN assessment for *A. eupalama,* this species is endemic to the eastern Pacific Ocean, found only in waters around the Galápagos Islands (Allen *et al.*, 2010). It has apparently disappeared following the intense 1982–1983 El Niño event, when greatly increased sea temperatures had strong adverse effects on the islands' marine fauna and flora. Recent targeted searches have not encountered any individuals. Because its sister species, *A. hirundo,* occurs in a similar environment, the Revillagigedos Islands, near the northern limit of the Eastern Tropical Pacific, Allen *et al.* (2010) speculate that populations of *A. eupalama* may still exist on islands off Peru with warm temperate conditions, such as the Lobos Islands.

This species may already be extinct (Robertson and Allen, 2006). It was considered 'occasional' in 1977, and prior to the 1982–1983 El Niño event, it was recorded from Floreana, Española, Isabela, Marchena, Santiago, San Cristobal, Santa Cruz, and Santa Fe Islands in the Galápagos Archipelago. Numbers of this species were greatly reduced during the 1982–1983 El Niño, and there have been no sightings since that time. Oceanographic environmental changes associated with the 1982–1983 El Niño event are presumably responsible for the apparent disappearance of this species from the Galápagos.

No conservation measures are in place for this species. It has historically been present in the Galápagos Islands MPA, but that protection did not stop these precipitous declines. Therefore, the petitioner argues that this species should be protected under the ESA, especially because the frequency and duration of ENSO events in this region of the Eastern Tropical Pacific appears to be increasing.

The purpose of the ESA is to conserve species that are in danger of or threatened with extinction. The definition of an endangered species is "any species which *is* in danger of extinction throughout all or a significant portion of its range" (Section 3(6)). Species that are already extinct are not protected by the ESA. The best available scientific information suggests that *A. eupalama* is not known to be alive or exist in the wild and may already be extinct; therefore, we find that this species does not qualify for listing as endangered or threatened under the ESA.

Scarus trispinosus

According to the petitioner and the IUCN assessment for *S. trispinosus,* this species is endemic to Brazil with a range from Manoel Luiz Reefs on the northern Brazilian coast to Santa Catarina on the southeastern Brazilian coast (Ferreira *et al.*, 2010). It is reef-associated, usually found in seagrass, coral reefs, on algal and rocky reefs and on algal beds at depths of 1–45 m. It is an important excavator that often feeds on live coral.

The petitioner and Ferreira *et* al. (2010) cited Rocha and Rosa (2001) to assert that, during the period 1996–1998, *S. trispinosus* was the second most abundant species in Manoel Luis State Marine Park (northeastern Brazil), being reported in 69 percent of underwater visual census surveys. We reviewed Rocha and Rosa (2001), and we note that the species reported in 69 percent of underwater visual census surveys is actually *S. coelestinus,* the midnight parrotfish, not *S. trispinosus.* Regardless, the petitioner did not assert that the population had declined in Manoel Luis State Marine Park.

According to the petitioner, *S. trispinosus* populations have, however,

declined in two areas of Brazil: Abrolhos Bank off eastern Brazil, and Arraial do Cabo in the southeastern part of its range. Ferreira *et* al. (2010) assert that on the Abrolhos Bank, which is the largest coral reef in the south Atlantic, *S. trispinosus* represented about 28 percent of total fish biomass in 2001, and showed a 50-percent decline in the "past 5 years" (Francini-Filho and Moura, 2008). Upon reviewing Francini-Filho and Moura (2008), we confirmed that *S. trispinosus was* the most abundant target species in the region *in 2001, comprising 28.3 percent of total fish biomass.* While we could not confirm the 50-percent decline, the petitioner also cited Francini-Filho (2005) to support this assertion. We could not confirm this because the petitioner did not provide a citation for this paper in the list of references. For the purposes of this finding, we will assume the petitioner is citing accurate information. According to a personal communication (B. Ferreira pers. comm., 2008) cited in Ferreira *et al.* (2010), *S. trispinosus* biomass has declined by 60–70 percent over the last 15 years in the southeastern part of its range (Arraial do Cabo). Population size is not known, but the trend is decreasing.

Approximately 78 percent of mixed habitat parrotfishes such as *S. trispinosus* are experiencing greater than 30 percent loss of coral reef area and habitat quality. Coral reef loss and declining habitat conditions are particularly worrying for some corallivorous excavating parrotfishes that play major roles in reef dynamics and sedimentation. The petitioner asserts that the extensive loss of *S. trispinosus* habitat that is already occurring, and that will likely occur in the future as a result of anthropogenic climate change and other human-related impacts, qualifies this species for protection under the ESA. The petitioner contends that the species is primarily threatened by spearfishing, net, and trap fishing throughout its range. Based on measured declines of *S. trispinosus* in at least two significant parts of its range (Abrolhos Bank in eastern Brazil, and Arraial do Cabo in the southeastern part of its range), along with observations that large individuals have become very rare, Ferreira *et al.* (2010) estimate that at least 50 percent of the global population has declined over the past 20–30 years.

Further review of Francini-Filho and Moura (2008) provides some information about the effectiveness of marine protected areas in protecting *S. trispinosus* and other reef-associated fishes. Using a nested stationary visual census technique adapted from Bohnsack and Bannerot (1986), these researchers showed that *S. trispinosus* biomass increased sharply between 2001 and 2002 on a newer no-take reserve and on a multiple-use area, soon after initiation of protection in the former and the banning of the parrotfish fishery in the latter. This increase was followed by a sharp decline from 2003 on, after poaching levels increased in the no-take reserve and local fishermen decided to reopen the parrotfish fishery in the multiple-use area. The authors concluded that these results indicate that legal protection alone, without effective enforcement and continued engagement from the local fishing communities on the implementation of regulations, is not enough to guarantee the success of MPAs.

Further, the petitioner argues that the number of protected areas within its range does not include a large proportion of this species' population or habitat. There are no species-specific conservation measures in place for this species. Finally, the petitioner notes that even protected coral reefs will not be spared the damaging effects from anthropogenic climate change.

Based on the best available information, we find that the threats of habitat destruction (coral reefs), overutilization by fisheries, inadequate existing regulatory mechanisms, and anthropogenic climate change may be impacting *S. trispinosus* to a degree that raises concerns of a risk of extinction, with significant population decline in two significant parts of its limited range. We conclude that the petition presents substantial scientific information indicating that the petitioned action of listing *S. trispinosus* as threatened or endangered may be warranted.

Argyrosomus hololepidotus

According to the petitioner and the IUCN assessment for *A. hololepidotus,* this species is endemic to the southeast coast of Madagascar, with an area of occupancy of less than 500 km^2 (Heemstra, 2007). It is a large sciaenid, meaning it has "drumming muscles" for producing rudimentary vocalizations, and it is a benthic carnivore, feeding on other fish, crustaceans, and mollusks. While its generation length is unknown, similar large members of the same family have relatively long lifespans and long generation lengths, according to Heemstra (2007).

The population is estimated to possibly number less than 10,000 mature individuals, all in a single population that is undergoing continuing decline. Current declines are suspected to be about 10 percent over the last 3 generations (Heemstra, 2007). Despite noting that the species is undergoing continuing decline, Heemstra (2007) state that the population trend is unknown.

The petitioner asserts that pollutants resulting from the expanding human population in the region are increasingly negatively impacting the inshore areas and estuaries that form this species' nursery areas. While fisheries data and fishery-independent data appear to be non-existent for this species, the petitioner argues that it is likely caught both deliberately and accidentally as bycatch, since local people eat this species, primarily for subsistence (though there apparently is some documented trade). The petitioner argues that any level of fishing is inappropriate for a species with such a small population. There are no conservation measures in place for this species. Finally, the petitioner contends that this species has a low capacity to tolerate environmental impacts without suffering irreversible change, increasing the likelihood that anthropogenic impacts will subject *A. hololepidotus* to extinction.

Species classifications under the IUCN and the ESA are not equivalent, and data standards, criteria used to evaluate species, and treatment of uncertainty are also not necessarily the same. Thus, as we noted in an early section of this finding, we instead consider the information on threats identified by the petitioners, as well as the data on which they are based, as they pertain to each petitioned species. A population size of 10,000 mature individuals and a 10 percent decline over 3 generations do not indicate that a species is threatened or endangered under the ESA. And, as stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. Further, we do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *A. hololepidotus* numbers or threats to the species. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or

commercial information indicating that listing may be warranted for *A. hololepidotus*.

Mycteroperca fusca

According to the petitioner and the IUCN assessment for *M. fusca*, this species has a limited range (eastern Atlantic around the Azores and Madeira, Portugal, and Cape Verde and the Canary Islands, Spain) (Rocha *et al.*, 2008). It is a demersal species that occurs in rocky areas at depths from 1–200 m. Juveniles are also found in tide pools. This species was previously abundant, but now locally rare. Researchers have observed local extinctions in the most intensively fished areas in the islands of the Canary Archipelago. The population size is unknown, but the trend is decreasing. Individuals are rarely observed greater than 40 cm total length, which is about half of its known maximum size.

The major threat to *M. fusca* is fishing pressure that targets spawning aggregations. This has led to population declines, altered sex ratios, and extirpation of spawning aggregations for other serranids. This species has shown one of the strongest responses to variations in fishing intensity and human population among the Canary Islands, which supports the hypothesis that major human intervention has affected the abundance and biomass of this species in the Canary Islands (Tuya *et al.*, 2006). Specific areas of occurrence and the condition of the *M. fusca* population in these areas include: Santa Maria (Azores) at Baixa do Norte, where a reproductive aggregation is known and monitored annually; Sao Miguel (Azores) at Ilheus dos Mosteiros, where adults are very rare; Terceira (Azores) at Ilheus da Mina, where adults are very rare; Faial (Azores) at Baixa do Castelo Branco, where formerly the largest known reproductive aggregation in the Northeast Atlantic occurred, but where it is now totally extirpated by overfishing; MAP of Garajau (Madeiras), where it is very common, including adults, but it is presently unknown whether reproductive aggregations occur; and North Coast of Porto Santo Island (Madeiras), where it is very rare, but adults are regularly seen at depths below 30 m (Barreiros, J.P., pers. comm., UAC/IMAR). Several MPAs cover this species' range, but the petitioner contends that it needs protection throughout its range.

Based on the best available information, we find that the threats of overutilization by fisheries, inadequate existing regulatory mechanisms, and the species' vulnerability caused by its spawning aggregations may be impacting *M. fusca* to a degree that raises concerns of a risk of extinction, with extirpations and population declines in different areas of its range. We conclude that the petition presents substantial scientific information indicating that the petitioned action of listing *M. fusca* as threatened or endangered may be warranted.

Mycteroperca jordani

According to the petitioner and the IUCN assessment for *M. jordani*, this species has a restricted range, in the Eastern Central Pacific from southern La Jolla, CA, to Mazatlán, Mexico, and into the Gulf of California (Craig *et al.*, 2008). It is found on rocky reefs and in kelp beds. Adults are common in shallow water from southern California to Mexico. Juveniles are unknown in California waters, and few large adults are taken there. Large adults feed on other fish and have been reported feeding on juvenile hammerhead sharks. This species is large, with a recorded maximum size of nearly 2 m and maximum weight of 91 kg. *Mycteroperca jordani* is currently in "severe decline" throughout the Gulf of California, with fishers indicating a 50–70 percent decline in catch rates since 1950 in the Gulf of California. It was abundant in central Baja California and probably dominated the rocky-reef fish community in terms of biomass, but it declined dramatically in the 1970s and is now scarce. Based on changes in the number of individuals within spawning aggregations, the population decline from the 1940s to the present could be greater than 99 percent. The species comprised 45 percent of total state finfish production in 1960, but fell to only 6 percent by 1972. Recent estimates suggest that it comprises less than 1 percent of total finfish catch now. The population size is unknown, though there is a decreasing trend. Much of the information on the significant declines since the 1940s is from Saenz-Arroyo *et al.* (2005), cited by the petitioner. Saenz-Arroyo *et al.* (2005) discuss the "shifting baseline" syndrome that can affect the stock assessment of a vulnerable species by masking real population trends and thereby put marine animals at serious risk. These authors reviewed historical evidence and naturalists' observations and systematically documented fishers' perceptions of trends in the abundance of *M. jordani* to show that it has dramatically declined. Population abundance dropped rapidly after the 1970s, long before fishery statistics were formally developed for this area, making historical tools valuable for understanding historical abundance of *M. jordani* and the extent of the fishery.

The petitioner asserts that all five ESA section 4(a)(1) factors threaten the survival of *M. jordani*. Under the first section 4(a)(1) factor, "overutilization for commercial, recreational, scientific, or educational purposes," the petitioner asserts that coastal development in the northern Gulf of California (particularly Bahia La Cholla Marina) is expected to promote reef habitat destruction and that planned development threatens the El Borrascoso area of the Gulf of California habitat through dredging; destruction of geologic outcrops; and modification of coastal lagoons for shrimp mariculture, resulting in damage from construction and pollution from effluents. As with other species accounts, the petitioner also cites Zamora-Arroyo *et al.* (2005) to support its assertion that, "[i]n the case of habitat destruction resulting from coastal development, the severity of impacts is high with low reversibility." The petitioner adds that increased human population growth in coastal cities means more construction, dredging, dumping of waste, runoff pollution, sedimentation, deforestation, and increased tourism, and asserts that urban pollution contributes to increasing "dead zones." Also, climate change is expected to further magnify these coastal pollution problems, resulting in mass fish mortality from multiple algal blooms. Finally, the petitioner contends that potential tidal power development, if implemented, will result in severe impacts and irreversible loss of the Upper Gulf habitat.

Under the second section 4(a)(1) factor, "overutilization for commercial, recreational, scientific, or educational purposes," the petitioner notes that this species is heavily targeted by recreational and sub-national fisheries throughout its range and incidentally caught by shrimp trawlers in the Gulf of California. The petitioner also asserts that the species' spawning aggregations, which are restricted to the Mexican northwest, are heavily fished, and this is problematic because it makes it much easier for population-level numbers of *M. jordani* to be effectively targeted by fishers at easily identifiable locations and times. Thus, higher numbers of specimens can be easily taken, and spawning can be interrupted, leading to additional declines in overall *M. jordani* numbers. U.S. recreational fishers also target these same areas.

Under the third section 4(a)(1) factor, "disease or predation," the petitioner points to shrimp farming as an increased threat of disease, from the "escape of disease and viral pathogens from the ponds to the open Gulf." This

threat may increase as coastal lagoons adjacent to newly developed areas could be modified for shrimp mariculture, according to the petitioner.

Under the fourth section 4(a)(1) factor, "the inadequacy of existing regulatory mechanisms," the petitioner notes that, while this species occurs partially within the Alto Golfo Biosphere Reserve, it offers nominal or minimal protection because enforcement is lacking.

Finally, under the fifth section 4(a)(1) factor, "other natural or manmade factors affecting its continued existence," the petitioner asserts that the skewed sex ratio (females outnumber males significantly) decreases the likelihood of reproduction and increases the likelihood that the species will go extinct if the disparity continues. The petitioner also notes that the species is vulnerable to extinction in part because of its K-selected life history (large, low productivity, low numbers of mature adults), which makes it susceptible to the rapid, chaotic change it is experiencing. Finally, the petitioner contends that, because *M. jordani* is threatened by multiple stressors and is a K-selected species, these multiple threats are likely to cause extinction pressure greater than the mere additive pressure of each threat alone (synergistic effects).

The threats under the first (habitat degradation) and third factor (disease and predation) are general, and the petitioner provides no specific information on whether or how they are affecting *M. jordani.* As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. No such information on these threats was provided in the petition.

However, the petitioner provides convincing evidence to support the assertion that the second (overutilization), fourth (inadequacy of regulatory mechanisms), and fifth (other natural or manmade factors) factors may be affecting *M. jordani* in a negative way. The likelihood that *M. jordani* has undergone a severe decline since the 1940s, combined with the high fishing pressure, the lack of regulatory mechanisms to control this fishing pressure, and the species' habit of congregating in large numbers for spawning may all contribute to an increased risk of extinction. Based on the best available information, we find that the threats of overutilization by fisheries, inadequate existing regulatory mechanisms, and other natural factors may be impacting *M. jordani* to a degree that raises concerns of a risk of extinction. We conclude that the petition presents substantial scientific information indicating that the petitioned action of listing *M. jordani* as threatened or endangered may be warranted.

Paralabrax albomaculatus

According to the petitioner and the IUCN assessment for *P. albomaculatus,* this species is found only in the Galápagos Islands (Robertson *et al.,* 2010). It is a reef-associated fish that inhabits rocky reefs and nearby sand patches. It is found in depths of 10 to 75 m, and it prefers cooler water (Reck, 1983). It preys on mobile benthic crustaceans, octopus, squid, and cuttle fishes. Estimated age at first maturity is 1–2 years and longevity 10–12 years, based on other similar species; therefore, generation length is estimated to be about 5 years. No population size information is available, though a substantial decline (about 70 percent) in population numbers occurred between 1998 and 2001, as inferred from fish landings, with no evidence of a decrease in fishing effort (Danulat and Edgar, 2002). It has a decreasing trend, according to the petition. Upon review of Danulat and Edgar (2002), however, it appears that the petitioner neglected to include the first year of data from the time series analyzed by Danulat and Edgar (2002). Danulat and Edgar (2002) analyzed handline catch data from the *M. olfax* (bacalao) fishery in the Galápagos from 1997 through 2001. While *M. olfax* was by far the most abundant in this fishery, the fishery captured five other species, including *M. albomaculatus.* The catches of *M. albomaculatus* were 12, 23, 16, 16, and 9.7 tonnes live weight in 1997, 1998, 1999, 2000, and 2001, respectively. Even if we use only the data from the years 1998 through 2001, it is not clear how the petitioner arrived at an approximately 70-percent decline from 1998 through 2001. Using the catches reported in Table 5 (p. 51) by Danulat and Edgar (2002), we come up with a 58-percent decline for this portion of the time series. Regardless, the decline is actually a 19-percent decline when the entire time series is included, and 19 percent does not seem to represent a substantial decline. In fact, Danulat and Edgar (2002) speculated that the warmer temperatures associated with the 1997–1998 El Niño event contributed to the larger sizes, higher abundance, and larger proportion of *M. olfax* captured during the period 1997–1998. This El Niño event could have very well contributed to the higher numbers of *M. albomaculatus* in 1998. Or, the differences in catches during the 5-year period could have been the result of a natural population fluctuation.

The petitioner states that *P. albomaculatus* will lose habitat at its preferred depths as surface ocean temperatures rise with climate change. Further, while its entire range is within an MPA, it is still subject to commercial fishing. The frequency and duration of ENSO events in this region appears to be increasing, and the petitioner states that juveniles of this cool water species, observed primarily in relatively shallow water, may be negatively affected by increased temperatures during severe ENSO events. The petitioner does not provide any specific information indicating whether or how these threats are affecting *M. albomaculatus.*

As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. Further, we do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *M. albomaculatus* numbers or threats to the species. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *M. albomaculatus.*

Enneapterygius namarrgon

According to the petitioner and the IUCN assessment for *E. namarrgon,* this coastal species is endemic to the bauxite rocks of Gove Peninsula, south of Cape Arnhem in the Northern Territory of Australia (Fricke *et al.,* 2010). It is distributed across a very small area of approximately about 317 km^2. The petition provides no population information or trend information.

The petitioner asserts that bauxite is the most important aluminum ore and over 85 percent of the bauxite mined

globally is converted to alumina for the production of aluminum metal. Further, Australia is the world's leading producer of bauxite, accounting for 36 percent of world production, and this mine contains the highest-grade bauxite deposits in the world. The petitioner also notes that it is predicted that the resource life for existing bauxite operations is around 70 to 75 years. There are currently no species-specific conservation measures in place for this species.

The petitioner provides no information on whether and how *E. namarrgon* is being affected by bauxite mining. As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. Further, we do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. We look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information in our files on *E. namarrgon* numbers or threats to the species. After evaluating the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *E. namarrgon*.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, including the sections of the petition applicable to all of the petitioned species as well as the species-specific information, we conclude the petition in its entirety does not present substantial scientific or commercial information indicating the petitioned action may be warranted for 5 of the 10 species of skates and rays (*Dasyatis margarita, Electrolux addisoni, Okamejei pita, Pastinachus solocirostris,* and *Trygonorrhina melaleuca*), and 10 of the 15 species of bony fishes (*Colpichthys hubbsi, Tomicodon abuelorum, Halichoeres socialis, Paraclinus magdalenae, Paraclinus walkeri, Chaetodontoplus vanderloosi, Azurina eupalama, Argyrosomus hololepidotus, Paralabrax albomaculatus,* and *Enneapterygius namarrgon*). However, as described above, we find that there is substantial scientific or commercial information indicating the petitioned action may be warranted for 5 of the 10 species of skates, and rays and 5 of the 15 species of bony fishes, and we hereby announce the initiation of a status review for each of these species to determine whether the petition action is warranted. These 5 skates and rays are *Bathyraja griseocauda, Raja undulata, Rhinobatos cemiculus, R. horkelii,* and *R. rhinobatos,* and the 5 bony fishes are *Latimeria chalumnae, Pterapogon kauderni, Scarus trispinosus, Mycteroperca fusca,* and *Mycteroperca jordani.*

Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting information relevant to whether the 10 species we believe may be warranted for listing (*Bathyraja griseocauda, Raja undulata, Rhinobatos cemiculus, R. horkelii, R. rhinobatos, Latimeria chalumnae, Pterapogon kauderni, Scarus trispinosus, Mycteroperca fusca,* and *Mycteroperca jordani*) are threatened or endangered. Specifically, we are soliciting information, including unpublished information, in the following areas: (1) Historical and current distribution and abundance of each species throughout its range; (2) historical and current population trends; (3) life history information; (4) data on trade of these species, including products such as fins and notochords; (5) historical and current data on catch, bycatch, retention, and discards in fisheries; (6) ongoing or planned efforts to protect and restore these species and their habitats; (7) any current or planned activities that may adversely impact these species; and (8) management, regulatory, and enforcement information. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 18, 2014.

Samuel D. Rauch III,

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

[FR Doc. 2014–03942 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD095

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council (SAFMC) Oculina Experimental Closed Area Evaluation Team.

SUMMARY: The Oculina Experimental Closed Area Evaluation Team will discuss the Oculina Experimental Closed Area via webinar and a series of breakout sessions. See **SUPPLEMENTARY INFORMATION**.

DATES: The webinar will be held on Wednesday, March 12, 2014 from 1 p.m. until 4 p.m., and the breakout sessions will occur during the timeframe of March 13 through March 20, 2014.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Anna Martin at the SAFMC (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of the webinar.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Anna Martin, Fishery Biologist; telephone: (843) 571–4366; email: *anna.martin@safmc.net.*

SUPPLEMENTARY INFORMATION: This webinar was to be held on February 13th, however, due to adverse weather conditions, had to be rescheduled. The original notice published in the **Federal Register** on January 27, 2014 (79 FR 4335).

The Evaluation Team is comprised of law enforcement representatives,

research scientists, resource managers, commercial fishermen, recreational fishermen, outreach experts, and non-governmental organization representatives. The Team is tasked with reviewing and providing recommendations for the ongoing research and monitoring, outreach, and law enforcement components of the Evaluation Plan.

The SAFMC extended the snapper grouper bottom fishing restrictions for the Oculina Experimental Closed Area (OECA) for an indefinite period in Snapper Grouper Amendment 13A. The amendment required that the size and configuration of the OECA be reviewed within three years of the implementation date of 13A and that a 10-year re-evaluation be conducted. The re-evaluation is the subject of this webinar.

The items of discussion during the data webinar are as follows:

1. Participants will initiate discussions on the re-evaluation of the OECA.

2. Breakout sessions will be held with the Evaluation Team to discuss Research & Monitoring, Outreach, and Law Enforcement components of the Evaluation Team.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during 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 intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 19, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–03816 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2013–0065]

Grant of Interim Extension of the Term of U.S. Patent No. 5,610,059; Monovalent Lawsonia Intracellularis Bacterin Vaccine

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of Interim Patent Term Extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 5,610,059.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755; or by email to *Mary.Till@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On December 27, 2013, the Arizona Board of Regents, on behalf of the University of Arizona, the patent owner of record, timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 5,610,059. The patent claims the veterinary biological product monovalent *Lawsonia intracellularis* bacterin vaccine. The application indicates that Intervet, a licensee of the patent owner, submitted two Product License Applications (PLA) to the United States Department of Agriculture (USDA). In a letter dated April 12, 2011, USDA acknowledged receipt of the PLA for a multi-valent vaccine and assigned the vaccine product code 49L5.RO. In a letter dated December 22, 2011, USDA acknowledged receipt of a PLA for a monovalent vaccine of *Lawsonia intracellularis* bacterin and assigned the vaccine product code 2799.20.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the original expiration date of the patent, March 11, 2014, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 5,610,059 is granted for a period of one year from the original expiration date of the patent.

Dated: February 14, 2014.

Andrew Hirshfeld,

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2014–03855 Filed 2–21–14; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before March 26, 2014.

ADDRESSES: Comments may be submitted to OMB within 30 days of the notice's publication. Comments, identified by "Part 41 Relating to Security Futures Products (OMB Control No. 3038–0059)," should be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503.

Comments may be also be submitted, regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, identified by "Part 41 Relating to Security Futures Products (OMB Control No. 3038–0059)," by any of the following methods:

- Agency Web site, via its Comments Online process: *http://*

comments.cftc.gov. Follow the instructions for submitting comments through the Web site.

- Mail: Send to Melissa D. Jurgens, Secretary, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.
- Hand Delivery/Courier: Same as Mail, above.
- Federal eRulemaking Portal: *http://www.regulations.gov/search/index.jsp.* Follow the instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures set forth in section 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: David Steinberg, Commodity Futures Trading Commission, 202–418–5102, FAX: 202–418–5527, email: *dsteinberg@cftc.gov,* and refer to OMB Control No. 3038–0059. This contact can also provide a copy of the ICR.

SUPPLEMENTARY INFORMATION:

Title: Part 41 Relating to Security Futures Products (OMB Control No. 3038–0059). This is a request for extension of a currently approved information collection.

Abstract: Section 4d(c) of the Commodity Exchange Act (CEA), 7 U.S.C. 6d(c), requires the Commodity Futures Trading Commission (CFTC) to consult with the Securities and Exchange Commission (SEC) and issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to firms that are fully registered with the SEC as brokers or dealers (broker-dealers) and the CFTC as futures commission merchants (FCMs) involving provisions of the CEA that pertain to the treatment of customer funds. The CFTC, jointly with the SEC, issued regulations requiring such dually-registered firms to make choices as to how its customers' transactions in security futures products (SFP) will be treated, either as securities transactions held in a securities account or as futures transactions held in a futures account. How an account is treated is important in the unlikely event of the insolvency of the firm. Only securities accounts receive insurance protection under provisions of the Securities Investor Protection Act. By contrast, only futures accounts are subject to the protections provided by the segregation requirements of the CEA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 2013 (78 FR 77439).

Burden Statement: The respondent burden for this collection is estimated to average .721 hours per response. These estimates include 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; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 144.

Estimated number of responses: 2,975.

Estimated total annual burden on respondents: 2,146 hours.

Frequency of collection: On occasion.

ATTACHMENT A

PART 41—SECURITY FUTURES PRODUCTS

[OMB collection No. 3038–0059]

	Estimated number of respondents or recordkeepers per year	Reports annually by each respondent	Total annual responses	Estimated average number of hours per response	Estimated total number of hours of annual burden in fiscal year
Reporting					
41.3 Application for exemption by intermediaries	5	1	5	25	125
41.23(a)(1)–(6) and 41.23(b) Listing of SFPs	3	140	420	2	840
41.24(a)(1)–(5) and 41.24(b) Rule amendments	3	8	24	2	48
41.23(a)(7) and 41.24(a)(6) Requests for confidential treatment	3	.30	.90	2	1.80
41.27(c) Rules prohibiting exemptions	1	1	1	2	2
41.27(e) Rules permitting exemptions	1	1	1	2	2
41.31 SFPCM designation (one time only)	1	1	1	5	5
41.32 SFPCM continuing obligations	3	20	60	4	240
41.33 Application for exemption by SFPCM	1	1	1	40	40
41.41 FCM/B–D disclosure	60	40	2,400	.25	600
41.49 Margin rule changes	3	.30	.90	2	1.80
Subtotal Reporting Requirements	*84*		*2,914.80*		*1,905.60*
Recordkeeping					

[1] Commission regulations referred to herein are found at 17 CFR Ch. 1 (2010). Commission regulations are accessible on the Commission's Web site, *www.cftc.gov.*

PART 41—SECURITY FUTURES PRODUCTS—Continued

[OMB collection No. 3038–0059]

	Estimated number of respondents or recordkeepers per year	Reports annually by each respondent	Total annual responses	Estimated average number of hours per response	Estimated total number of hours of annual burden in fiscal year
41.41(a)(2) Handling of customer accounts	60	1	60	4	240
Subtotal Recordkeeping Requirements	*60*	*1*	*60*	*4*	*240*
TOTAL REPORTING AND RECORDKEEPING	*144*		*2,974.80*	*0.72*	*2,145.60*

Authority: 44 U.S.C. 3501 *et seq.*

Dated: February 18, 2014.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

[FR Doc. 2014–03788 Filed 2–21–14; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled The CNCS Retired and Senior Volunteer Program Survey for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Anthony Nerino, Research Associate, at 202–606–3913 or email to *anerino@cns.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.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day notice requesting public comment was published in the **Federal Register** on November 12, 2013. This comment period ended January 13, 2014. No public comments were received from this Notice.

Description: Currently, CNCS is soliciting comments concerning its proposed Retired and Senior Volunteer Program Survey. The survey will be administered to a sample of current RSVP volunteers to assess the distribution of volunteers across work plans, volunteer time, volunteer demographic information and level of psycho-social health and functioning. The survey is designed to allow CNCS to compare the results to a comparison group that is a representative sample of Americans age 50 and older.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Retired and Senior Volunteer Survey.

OMB Number: New.

Agency Number: None.

Affected Public: Volunteers in the Retired and Senior Volunteer Program.

Total Respondents: 1200 respondents.

Frequency: Once.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 600 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: February 18, 2014.

Mary Hyde,

Acting Director, Research and Evaluation.

[FR Doc. 2014–03764 Filed 2–21–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Independent Review Panel on Military Medical Construction Standards; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Independent Review Panel on Military Medical Construction Standards ("the Panel").

DATES:

Monday, March 3, 2014

8:00 a.m.–10:00 a.m. (Administrative Working Meeting)
10:00 a.m.–12:00 p.m. (Open Session)
12:00 p.m.–1:00 p.m. (Administrative Working Meeting)
1:00 p.m.–5:00 p.m. (Open Session)

Tuesday, March 4, 2014

8:00 a.m.–5:00 p.m. (Administrative Working Meeting)

ADDRESSES: Defense Health Headquarters (DHHQ), Salon A, 7700 Arlington Blvd., Falls Church, Virginia 22042 (escort required; see guidance in

SUPPLEMENTARY INFORMATION, "Public's Accessibility to the Meeting.")

FOR FURTHER INFORMATION CONTACT: The Director is Ms. Christine Bader, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, (703) 681–6653, Fax: (703) 681–9539, *christine.bader@dha.mil.* For meeting information, please contact Ms. Kendal Brown, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, *kendal.brown.ctr@dha.mil.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting

At this meeting, the Panel will address the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 (Pub. L. 111–383), Section 2852(b) requirement to provide the Secretary of Defense independent advice and recommendations regarding a construction standard for military medical centers to provide a single standard of care, as set forth below:

a. Reviewing the unified military medical construction standards to determine the standards consistency with industry practices and benchmarks for world class medical construction;

b. Reviewing ongoing construction programs within the DoD to ensure medical construction standards are uniformly applied across applicable military centers;

c. Assessing the DoD approach to planning and programming facility improvements with specific emphasis on facility selection criteria and proportional assessment system; and facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the Military Departments;

d. Assessing whether the Comprehensive Master Plan for the National Capital Region Medical ("the Master Plan"), dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Pub. L. 111–84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the Master Plan result in world class military medical centers in the National Capital Region; and

e. Making recommendations regarding any adjustments of the Master Plan that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

Agenda

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the DHB meeting is open to the public from 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. on March 3, 2014. On March 3, 2014, the Panel will meet with senior Military Health System leaders and receive briefings from the Department to include the various tools the Defense Health Agency utilizes that support military construction standardization.

Availability of Materials for the Meeting

A copy of the agenda or any updates to the agenda for the March 3, 2014 meeting, as well as any other materials presented in the meeting, may be obtained at the meeting.

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Ms. Kendal Brown at the number listed in the section **FOR FURTHER INFORMATION CONTACT** no later than 12:00 p.m. on Wednesday, February 26, 2014 to register and make arrangements for a DHHQ escort, if necessary. Public attendees requiring escort should arrive at the DHHQ Visitor's Entrance with sufficient time to complete security screening no later than 9:30 a.m. on March 3. To complete security screening, please come prepared to present two forms of identification and one must be a picture identification card.

Special Accommodations

Individuals requiring special accommodations to access the public meeting should contact Ms. Kendal Brown at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements

Any member of the public wishing to provide comments to the Panel may do so in accordance with 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice.

Individuals desiring to provide comments to the Panel may do so by submitting a written statement to the Director (see **FOR FURTHER INFORMATION CONTACT**). Written statements should address the following details: the issue, discussion, and a recommended course of action. Supporting documentation may also be included, as needed, to establish the appropriate historical context and to provide any necessary background information.

If the written statement is not received at least five (5) business days prior to the meeting, the Director may choose to postpone consideration of the statement until the next open meeting.

The Director will review all timely submissions with the Panel Chairperson and ensure they are provided to members of the Panel before the meeting that is subject to this notice. After reviewing the written comments, the President and the Director may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The Director, in consultation with the Panel Chairperson, may allot time for members of the public to present their issues for review and discussion by the Panel.

Due to difficulties beyond the control of the Designated Federal Officer (DFO), the DFO was unable to approve the Independent Review Panel on Military Medical Construction Standards' meeting agenda for the scheduled meeting of March 3–4, 2014, to ensure compliance with the requirements of 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: February 19, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–03812 Filed 2–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense

Advisory Committee on Women in the Services (DACOWITS) will take place. This meeting is open to the public.

DATES: Thursday, March 13, 2014, from 8:30 a.m. to 3:45 p.m.; Friday, March 14, 2014, from 8:30 a.m. to 11:45 a.m.

ADDRESSES: Sheraton National Hotel-Pentagon City, 900 South Orme St., Arlington, VA 22204.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Bowling or DACOWITS Staff at 4000 Defense Pentagon, Room 5A734, Washington, D.C. 20301–4000. *Robert.d.bowling1.civ@mail.mil.* Telephone (703) 697–2122. Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Advisory Committee on Women in the Services (DACOWITS).

The purpose of the meeting is for the Committee to receive briefings and updates relating to their current work. The Committee will receive briefings from the U.S. Marine Corps on the Combat Fitness Test and an update on the WISR Implementation Pillar One. The Navy will provide an update on Female Integration into the Submarine Service. The Army/USSOCOM will provide a briefing on the Examination of Cultural Factors with regard to Female Integration. The Committee will also receive briefings from the Services on the Accession of Enlisted Women. Additionally, the Committee will hold ceremonies recognizing Committee members. The Committee will also receive a briefing on Sexual Assault Provisions in NDAA 2014. Finally, the Committee will receive a briefing on the Sexual Harassment Complaints Process. The public portion on the meeting will wrap up with a public comment period.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, interested persons may submit a written statement for consideration by the Defense Advisory Committee on Women in the Services. Individuals submitting a written statement must submit their statement to the point of contact listed at the address in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., Tuesday, March 11, 2014. If a written statement is not received by Tuesday, March 11, 2014, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Advisory Committee on Women in the Services until its next open meeting. The Designated Federal Officer will review all timely submissions with the Defense Advisory Committee on Women in the Services Chair and ensure they are provided to the members of the Defense Advisory Committee on Women in the Services. If members of the public are interested in making an oral statement, a written statement should be submitted. After reviewing the written comments, the Chair and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Pursuant to 41 CFR 102–3.140(d), determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the Designated Federal Officer and will depend on time available and if the topics are relevant to the Committee's activities. Two minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Friday March 14, 2014 from 11:15 a.m. to 11:45 a.m. in front of the full Committee. The number of oral presentations to be made will depend on the number of requests received from members of the public.

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to the availability of space.

Meeting Agenda

Thursday, March 13, 2014, From 8:30 a.m. to 3:45 p.m.

—Welcome, Introductions, Announcements
—Briefing—Request for Information Update
—Briefing—USMC Combat Fitness Test (CFT) Briefing
—Briefing—USMC Update on WISR Implementation Pillar One
—Briefing—Navy Update on Female Integration into Submarine Service
—Briefing—Army/USSOCOM Briefing on Examination of Cultural Factors With Regard to Female Integration
—Briefing—Services Briefings on Accession of Enlisted Women
—Recognition of Committee Members

Friday, March 14, 2014, From 8:30 a.m. to 11:45 a.m.

—Welcome and Announcements
—Briefing—Sexual Assault Provisions in NDAA 2014 Briefing
—Briefing—Sexual Harassment Complaints Process Briefing
—Public Comment Period

Dated: February 19, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–03814 Filed 2–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number: DARS–2014–0013]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Warranty Tracking of Serialized Items

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through May 31, 2014. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by April 25, 2014.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0481, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: dfars@mail.mil. Include OMB Control Number 0704–0481 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Mr. Dustin Pitsch, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Dustin Pitsch, 571–372–6090. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Mr. Dustin Pitsch, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Warranty Tracking of Serialized Items; OMB Control Number 0704–0481.

Needs and Uses: DoD needs this information to identify items purchased with a warranty and to ensure that the Government has the information necessary to take advantage of warranties provided by the contractor.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Annual Burden Hours: 27,000.

Number of Respondents: 38,000.

Responses per Respondent: Approximately 1.4.

Annual Responses: 54,000.

Average Burden per Response: Approximately 30 minutes.

Frequency: On occasion.

Summary of Information Collection

This information collection includes requirements relating to DFARS part 246, Quality Assurance. The clause and provision prescribed as listed below are required to be used when it is anticipated that the resulting contract will include a warranty for serialized items.

a. DFARS 246.710(5)(i)(A) prescribes use of the provision at DFARS 252.246–7005, Notice of Warranty Tracking of Serialized Items. The provision is used to require offerors to provide warranty tracking information for each contract line item, subline item, or exhibit line for warranted items. In addition, offerors are required to include information on applicable warranty repair sources.

b. DFARS 246.710(5)(i)(B) prescribes use of the clause at DFARS 252.246–7006, Warranty Tracking of Serialized Items. The clause requires contractors to report updated tracking information for each item carrying a warranty prior to presenting the warranted items for receipt and/or acceptance.

DFARS 246.710–70, Warranty Attachment, includes the prescribed attachment and format referenced in the two DFARS clauses. The format includes headings for the information required for each item carrying a warranty. The required information includes, for example, the duration of the warranty, the warranty administrator's contact information, and the unit item identifier for the warranted item.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–03858 Filed 2–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Withdrawal of Notice of Intent To Prepare a Draft Environmental Impact Statement for the Zoar Levee and Diversion Dam, Dam Safety Modification Study, Tuscarawas County, OH

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent; withdrawal.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Huntington District, is withdrawing its intent to prepare a Draft Environmental Impact Statement (EIS) for the Zoar Levee and Diversion Dam, Dam Safety Modification Study. The Notice of Intent to prepare the EIS was published in the **Federal Register** on May 4, 2011 (76 FR 25310).

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Johnson, Acting Chief, Environmental Analysis Section, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701–2070. Telephone: (304) 399–5189. Email: *Andrew.N.Johnson@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Originally, the Huntington District planned to prepare a Draft EIS to disclose potential impacts to the natural, physical, and human environment resulting from implementation of alternatives formulated to address reliability risks associated with Zoar Levee and Diversion Dam. These high hazard structures do not meet current performance standards and exceed acceptable risk levels. Initially, a full array of alternatives was planned to be formulated to meet the purpose and need of the study. After full consideration of all alternatives, the best plan was to be selected to achieve acceptable risk levels.

Completion of Dam Safety Baseline Risk Assessment in November 2013 reduced urgency, complexity and controversy associated with risks allowing for early screening of non-structural options driving potential for significant and controversial effects. Environmental Assessment (EA) level effort was determined sufficient for the Modification Study. Therefore, it is anticipated the EA will result in a Finding of No Significant Impact (FONSI), an EIS is not anticipated.

Leon F. Parrott,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 2014–03742 Filed 2–21–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Withdrawal of Notice of Intent To Prepare a Draft Supplemental Environmental Impact Statement for the Greenup Locks and Dam, General Reevaluation Report, Greenup County, KY

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent; withdrawal.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Huntington District, is withdrawing its intent to prepare a Draft Supplemental Environmental Impact Statement (SEIS) for the Greenup Locks and Dam General Reevaluation Report. The Notice of Intent to prepare the SEIS was published in the **Federal Register** on June 14, 2012 (77 FR 35663).

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Johnson, Acting Chief, Environmental Analysis Section, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701–2070. Telephone: (304) 399–5189. Email: *Andrew.N.Johnson@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Originally, the Huntington District planned to prepare a General Reevaluation Report (GRR) and Draft SEIS to disclose potential impacts to the natural, physical, and human environment resulting from the implementation of alternatives to reduce foreseeable traffic delays and associated economic losses that occur during periodic maintenance

at the Greenup Locks and Dam located on the Ohio River. A Feasibility Report and Environmental Impact Statement (EIS) was previously completed for the project in April 2000. This study recommended a 600-foot (ft) extension of the existing auxiliary lock chamber to a length of 1200 ft. The project was authorized by Congress in 2000; however, no funds have been appropriated for project construction. Due to the amount of time that has elapsed since completion of the Feasibility Report, and the associated economic, environmental and reliability changes that may have occurred during this time, Federal interest must be reevaluated. The project alternatives which were planned to be considered included the plans considered in the previous study as well as variations to these plans which may include both structural and nonstructural operational measures, and the No Action alternative.

As part of this GRR, a Planning Charette was held in February 2013 with participation by the USACE Lakes and Rivers Division, Headquarters, and navigation stakeholders. Changes in the without project condition associated with revised reliability, updated traffic forecasts, funding constraints of the Inland Waterways Trust Fund, and higher priority inland navigation projects led the Charette team to recommend postponing this GRR. Therefore, an EIS is not anticipated at this time. Should the Corps start working on the GRR in the future, the scope and level of effort will be reevaluated.

Leon F. Parrott,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 2014–03740 Filed 2–21–14; 8:45 am]

BILLING CODE 3720–58–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, March 11, 2014. A conference session and business meeting will be held the following day on Wednesday, March 12, 2014. The hearing, conference session and business meeting are open to the public and will be held at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania.

Public Hearing. The public hearing on March 11, 2014 will begin at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges and other water-related projects subject to the Commission's review, and a resolution to adopt the Commission's capital and operating budgets for fiscal year 2015. The list of projects scheduled for hearing, including project descriptions, will be posted on the Commission's Web site, *www.drbc.net*, in a long form of this notice at least ten days before the hearing date. Written comments on draft dockets and resolutions scheduled for hearing on March 11 will be accepted through the close of the hearing that day. After the hearing on all scheduled matters has been completed, there will be an opportunity for public dialogue.

Because hearings on particular projects may be postponed to allow additional time for the commission's review, interested parties are advised to check the Web site periodically prior to the hearing date. Any postponements will be duly noted there.

Public Meeting. The public meeting on March 12, 2014 will begin at 12:15 p.m. and will consist of a conference session followed by a business meeting. The conference session will include a presentation by a representative from the U.S. Army Corps of Engineers on the North Atlantic Coast Comprehensive Study for reducing flood risk to coastal populations and promoting resilient coastal communities.

The business meeting will include the following items: adoption of the Minutes of the Commission's December 4, 2013 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed or is not required.

There will be no opportunity for additional public comments at the March 12 business meeting on hearing items for which the hearing was completed on March 11 or a previous date. Commission consideration on March 12 of items for which the public hearing is closed may result in either approval of the item (docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment for the record at the public hearing on March 11 or to address the Commissioners informally during the public dialogue portion of the hearing on March 11 are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.state.nj.us* or by phoning Ms. Schmitt at 609–883–9500 ext. 224.

Addresses for Written Comment. Written comment on items scheduled for hearing may be delivered by hand at the public hearing or in advance of the hearing, either: by hand, U.S. Mail or private carrier to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522; or by email to *paula.schmitt@drbc.state.nj.us.* If submitted by email in advance of the hearing date, written comments on a docket should also be sent to Mr. William Muszynski, Manager, Water Resources Management at *william.muszynski@drbc.state.nj.us.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Updates. Items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Other meeting items also are subject to change. Please check the Commission's Web site, *www.drbc.net*, closer to the meeting date for changes that may be made after the deadline for filing this notice.

Additional Information, Contacts. The list of projects scheduled for hearing, with descriptions, will be posted on the Commission's Web site, *www.drbc.net*, in a long form of this notice at least ten days before the hearing date. Draft dockets and resolutions for hearing items will be available as hyperlinks from the posted notice. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Carol Adamovic, 609–883–9500, ext. 249. For other questions concerning hearing items, please contact Project Review Section assistant Victoria Lawson at 609–883–9500, ext. 216.

Dated: February 18, 2014.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2014–03863 Filed 2–21–14; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0020]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Fulbright-Hays Doctoral Dissertation Research Abroad Program 1894–0001

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before March 26, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0020 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Pamela Maimer, 202–502–7704.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Fulbright-Hays Doctoral Dissertation Research Abroad Program 1894–0001.

OMB Control Number: 1840–0005.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Individuals or households, Private Sector.

Total Estimated Number of Annual Responses: 680.

Total Estimated Number of Annual Burden Hours: 17,000.

Abstract: The purpose of Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act) is to promote and develop modern foreign language training and area studies throughout the educational structure of the United States. To help accomplish this objective, fellowships are awarded through U.S. institutions of higher education to American doctoral dissertation fellows enabling them to conduct overseas research and enhance their foreign language proficiency.

Under the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) program, individual scholars apply through eligible institutions for an institutional grant to support the research fellowship. These institutions administer the program in cooperation with the U.S. Department of Education (US/ED) as provided under the authority of Sections 102(b)(6) and 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961, 34 CFR part 662, the Policy Statements of the J. William Fulbright Foreign Scholarship Board (FSB), and the Education Department General Administrative Regulations (EDGAR).

Dated: February 19, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–03810 Filed 2–21–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0021]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for the Fulbright-Hays Group Projects Abroad Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before March 26, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0021 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carly Borgmeier, 202–502–7691.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for the Fulbright-Hays Group Projects Abroad Program.

OMB Control Number: 1840–0792.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 100.

Total Estimated Number of Annual Burden Hours: 11,000.

Abstract: This is an application to participate in the Fulbright-Hays Group Project Abroad Program, which provides grants to overseas projects in training, research, and curriculum development in modern foreign languages and area studies for groups of teachers, students and faculty.

Dated: February 19, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–03820 Filed 2–21–14; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request; Election Assistance Commission's Voting System Test Laboratory Program Manual, Version 1.0

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice; comment request.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995, the U.S. Election Assistance Commission (EAC) invites the general public and other Federal agencies to take this opportunity to comment on EAC's request to renew an existing information collection, EAC's Voting System Test Laboratory Program Manual, Version 1.0. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the information collection on respondents. Comments submitted in response to this notice will be summarized and included in the request for approval of this information collection by the Office of Management and Budget; they also will become a matter of public record. This notice requests comments solely on the four criteria above. Note: This notice solicits comments on the currently-used Manual, Version 1.0 *only*. Due to lack of a quorum, EAC will postpone making changes to Version 1.0 of the Manual until such a time as a quorum is re-established. See **SUPPLEMENTARY INFORMATION**, below.

DATES: Written comments must be submitted on or before 11:59 p.m. EDT on April 25, 2014.

ADDRESSES: Comments and recommendations on the proposed information collection must be submitted in writing: (1) Electronically to *jmyers@eac.gov;* via mail to Mr. Brian Hancock, Director of Voting System Testing and Certification, U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910; or via fax to (202) 566–1392. An electronic copy of the manual, version 1.0, can be found on EAC's Web site at *www.eac.gov/open/comment.aspx.*

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please contact Mr. Brian Hancock, Director, Voting System Testing and Certification, Washington, DC (202) 566–3100, Fax: (202) 566–1392.

SUPPLEMENTARY INFORMATION:

Background

In this notice, EAC seeks comments on the paperwork burdens contained in the current version of the Voting System Test Laboratory Manual, Version 1.0 OMB Control Number 3265–0004 only. Version 1.0 is the original version of the Manual without changes or updates.

Current Information Collection Request, Version 1.0

Title: Voting System Test Laboratory Manual, Version 1.0.

OMB Number: 3265–0013.

Type of Review: Renewal.

Needs and Uses: Section 231(a) of the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15371(a), requires EAC to "provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories." To fulfill this mandate, EAC has developed and implemented the Voting System Test Laboratory Program Manual, Version 1.0. This version is currently in use under OMB Control Number 3265–0013. Although participation in the program is voluntary, adherence to the program's procedural requirements is mandatory for participants.

Affected Public: Voting system manufacturers.

Estimated Number of Respondents: 8.

Total Annual Responses: 8.

Estimated Total Annual Burden Hours: 200 hours.

Alice Miller,

Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2014–03831 Filed 2–21–14; 8:45 am]

BILLING CODE 6820–KF–P

ELECTION ASSISTANCE COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request; Election Assistance Commission's Voting System Testing and Certification Program Manual, Version 1.0

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice; comment request.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995, the U.S. Election Assistance Commission (EAC) invites the general public and other Federal agencies to take this opportunity to comment on EAC's request to renew an existing information collection, EAC's Voting System Testing and Certification Program Manual, Version 1.0. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the information collection on respondents. Comments submitted in response to this notice will be summarized and included in the request for approval of this information collection by the Office of Management and Budget; they also will become a matter of public record. This notice requests comments solely on the four criteria above. Note: This notice solicits comments on the currently-used Manual, Version 1.0 *only*. Due to lack of a quorum, EAC will postpone making changes to Version 1.0 of the Manual until such a time as a quorum is re-established. See **SUPPLEMENTARY INFORMATION**, below.

DATES: Written comments must be submitted on or before 11:59 p.m. EDT on April 25, 2014.

ADDRESSES: Comments and recommendations on the proposed information collection must be submitted in writing: (1) Electronically to *jmyers@eac.gov;* via mail to Mr. Brian Hancock, Director of Voting System Testing and Certification, U.S. Election Assistance Commission, 1335 East-West Highway, Suite 4300, Silver Spring, MD 20910; or via fax to (202) 566–1392. An electronic copy of the manual, version 1.0, can be found on EAC's Web site at *www.eac.gov/open/comment.aspx.*

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please contact Mr. Brian Hancock, Director, Voting System Testing and Certification, Washington, DC, (202) 566–3100, Fax: (202) 566–1392.

SUPPLEMENTARY INFORMATION:

Background

In this notice, EAC seeks comments on the paperwork burdens contained in the current version of the Voting System Testing and Certification Program Manual, Version 1.0 OMB Control Number 3265–0004 only. Version 1.0 is the original version of the Manual without changes or updates.

Current Information Collection Request, Version 1.0

Title: Voting System Testing and Certification Program, Version 1.0.

OMB Number: 3265–0004.

Type of Review: Renewal.

Needs and Uses: Section 231(a) of the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15371(a), requires EAC to "provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories." To fulfill this mandate, EAC has developed and implemented the Voting System Testing and Certification Program Manual, Version 1.0. This version is currently in use under OMB Control Number 3265–0004. Although participation in the program in voluntary, adherence to the program's procedural requirements is mandatory for participants.

Affected Public: Voting system manufacturers.

Estimated Number of Respondents: 8.

Total Annual Responses: 8.

Estimated Total Annual Burden Hours: 200 hours.

Alice Miller,

Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2014–03844 Filed 2–21–14; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 12, 2014, 6:00 p.m.

ADDRESSES: Department of Energy Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37830.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 576–0956 or email: *noemp@emor.doe.gov* or check the Web site at *www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome and Announcements
- Comments from the Deputy Designated Federal Officer
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Public Comment Period
- Presentation
- Additions/Approval of Agenda
- Motions/Approval of February 12, 2014 Meeting Minutes
- Status of Recommendations with DOE
- Committee Reports
- Federal Coordinator Report
- Adjourn

Public Participation: The EM SSAB, Oak Ridge, 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 Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a

fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.oakridge.doe.gov/em/ssab/board-minutes.html.*

Issued at Washington, DC, on February 18, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–03894 Filed 2–21–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring and Remediation Committee and Waste Management Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 12, 2014, 2:00 p.m.–4:00 p.m.

ADDRESSES: Cities of Gold Conference Center, NNMCAB Conference Room, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *menice.santistevan@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring and Remediation Committee (EM&R): The EM&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory (LANL) operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EM&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Tentative Agenda

1. 2:00 p.m. Approval of Agenda
2. 2:03 p.m. Approval of Minutes from February 12, 2014
3. 2:07 p.m. Old Business
   - Overview Roberts Rules of Order
4. 2:20 p.m. New Business
5. 2:35 p.m. Update from Executive Committee—Carlos Valdez, Chair
6. 2:40 p.m. Update from DOE—Lee Bishop, Deputy Designated Federal Officer
7. 2:45 p.m. Presentation by Robert Pfaff, Department of Energy, LA Field Office
   - Budget Priorities
8. 3:30 p.m. Public Comment Period
9. 3:45 p.m. Committee Break-out Session
   - Mid-Year Review of Individual Fiscal Year 2014 Committee Work Plans
10. 4:00 p.m. Adjourn

Public Participation: The NNMCAB's Committees welcome the attendance of the public at their combined committee meeting 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 Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/.*

Issued at Washington, DC, on February 18, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–03897 Filed 2–21–14; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, March 20, 2014, 6:00 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Rachel Blumenfeld, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Breaks Taken As Appropriate

Public Participation: The EM SSAB, Paducah, 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 Rachel Blumenfeld as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Rachel Blumenfeld at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Rachel Blumenfeld at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2013Meetings.html.*

Issued at Washington, DC, on February 18, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–03899 Filed 2–21–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP14–68–000, PF13–15–000]

Texas Eastern Transmission, LP; Notice of Application

Take notice that on January 31, 2014, Texas Eastern Transmission, LP (Texas Eastern), P.O. Box 1642, Houston, Texas 77251–1642, filed an application under section 7(c) of the Natural Gas Act to construct and operate approximately 76 miles of new 30-inch diameter pipeline (Ohio Extension), two compressor units and related facilities in Ohio; and (ii) make the necessary compressor station modifications to provide for reverse flow capabilities to enable Texas Eastern to provide 550,000 dekatherms per day of firm transportation service from receipt points in Ohio to delivery points in the Gulf Coast area under its Ohio Pipeline Energy Network Project (OPEN Project), all as more fully set forth in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding the OPEN Project should be directed to Berk Donaldson, Director, Rates and Certificates, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, TX 77251–1642 or at (713) 627–4488 (phone), or (713) 627–5947 (fax), or *bdonaldson@spectraenergy.com* or Marcy F. Collins, Associate General Counsel, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, TX 77251–1642 or at (713) 627–6137 (phone), or (713) 989–3191 (fax), or *mfcollins@spectraenergy.com.*

On June 21, 2013, the Commission staff granted Texas Eastern's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF13–15–000 to staff activities involving the project. Now, as of the filing of this application on January 31, 2014 (CP14–68–000), the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP14–68–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties.

However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: March 7, 2014.

Dated: February 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–03801 Filed 2–21–14; 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: ER13–488–002.

Applicants: Essential Power Rock Springs, LLC, PJM Interconnection, L.L.C.

Description: EP Rock Springs submits compliance filing per 1/23/2014 Order in ER13–488 to be effective 7/1/2013.

Filed Date: 2/13/14.

Accession Number: 20140213–5011.

Comments Due: 5 p.m. ET 3/6/14.

Docket Numbers: ER13–1556–003.

Applicants: Entergy Services, Inc.

Description: ESI Compliance ER13–1556 2–14–2014 to be effective 1/16/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5035.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER13–1896–005.

Applicants: AEP Generation Resources Inc.

Description: AEP Generation Resources Inc. submits tariff filing per 35.17(b): AEP Gen Resources MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5129.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–126–002.

Applicants: Yellow Jacket Energy, LLC.

Description: Response to Requests for Information, Comment Period and Confidential Treatment to be effective 12/18/2013.

Filed Date: 2/14/14.

Accession Number: 20140214–5068.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–591–001.

Applicants: Southwest Power Pool, Inc.

Description: 2635 Lincoln Electric System GIA—Compliance Filing to be effective 11/26/2013.

Filed Date: 2/14/14.

Accession Number: 20140214–5026.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–594–002.

Applicants: Ohio Power Company.

Description: Ohio Power Company submits tariff filing per 35.17(b): Ohio Power MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5128.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–859–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014_02_13_SPP JOA Amendment 3 amendment filing to be effective 3/1/2014.

Filed Date: 2/13/14.

Accession Number: 20140213–5007.

Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER14–861–000.

Applicants: Public Service Company of Colorado.

Description: Supplement to December 27, 2013 Public Service Company of Colorado tariff filing.

Filed Date: 2/12/14.

Accession Number: 20140212–5149.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–863–001.

Applicants: Southwest Power Pool, Inc.

Description: SPP–MISO JOA Emergency Energy Assistance Revisions Amendment to be effective 3/1/2014.

Filed Date: 2/13/14.

Accession Number: 20140213–5006.

Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER14–867–001.

Applicants: AEP Energy, Inc.

Description: AEP Energy, Inc. submits tariff filing per 35.17(b): AEP Energy MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5123.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–868–001.

Applicants: AEP Retail Energy Partners.

Description: AEP Retail Energy Partners submits tariff filing per 35.17(b): AEP Retail Energy Partners MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5122.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–869–001.

Applicants: AEP Texas Central Company, Southwestern Electric Power Company, Public Service Company of Oklahoma, AEP Texas North Company.

Description: AEP Texas Central Company submits tariff filing per 35.17(b): CSW Oper Co MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5124.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–870–001.

Applicants: Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Appalachian Power Company.

Description: Indiana Michigan Power Company submits tariff filing per 35.17(b): AEP Operating Companies MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5126.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–871–001.

Applicants: AEP Energy Partners, Inc.

Description: AEP Energy Partners, Inc. submits tariff filing per 35.17(b): AEP Energy Partners MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5127.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–872–001.

Applicants: CSW Energy Services, Inc.

Description: CSW Energy Services, Inc. submits tariff filing per 35.17(b): CSW Energy Services MBR Revision Amd to be effective 3/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5120.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–1306–000.

Applicants: Northeast Utilities Service Company, The Connecticut Light and Power Company.

Description: The United Illuminating Company submits Notice of Cancellation of Certificate of Concurrence of Black Pond Junction Code Works Agreement.

Filed Date: 2/12/14.

Accession Number: 20140212–5160.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1314–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–02–12_NIPSCO 69kV TUA to be effective 2/13/2014.

Filed Date: 2/12/14.

Accession Number: 20140212–5078.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1315–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–02–12_NIPSCO 138kV TUA to be effective 2/13/2014.

Filed Date: 2/12/14.

Accession Number: 20140212–5080.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1317–000.

Applicants: Sunshine Gas Producers, LLC.

Description: Application for Market-Based Rate Authority to be effective 4/1/2014.

Filed Date: 2/12/14.

Accession Number: 20140212–5115.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1318–000.

Applicants: California Independent System Operator Corporation.

Description: 2014–02–12_PriceCorrectionsTariffWaiver to be effective N/A under ER14–1318 Filing Type: 80.

Filed Date: 2/12/14.

Accession Number: 20140212–5117.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1319–000.

Applicants: Pacific Gas and Electric Company.

Description: Pre-Energization WPA under Comprehensive Agreement between PG&E and DWR to be effective 2/14/2014.

Filed Date: 2/13/14.

Accession Number: 20140213–5003.

Comments Due: 5 p.m. ET 3/6/14.

Docket Numbers: ER14–1320–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–02–13_Northeast Power-ITC–AECI T–T IA to be effective 1/29/2014.

Filed Date: 2/13/14.

Accession Number: 20140213–5004.

Comments Due: 5 p.m. ET 3/6/14.

Docket Numbers: ER14–1321–000.

Applicants: Appalachian Power Company.

Description: 20140213 TCC Att K Refiling to be effective 2/10/2014.

Filed Date: 2/13/14.

Accession Number: 20140213–5012.

Comments Due: 5 p.m. ET 3/6/14.

Docket Numbers: ER14–1322–000.

Applicants: Corinth Energy, LLC.

Description: Notice of MBR Tariff Cancellation to be effective 2/14/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5021.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–1323–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc., Capital Budget Quarterly Filing for Fourth Quarter of 2013.

Filed Date: 2/13/14.

Accession Number: 20140213–5091.

Comments Due: 5 p.m. ET 3/6/14.

Docket Numbers: ER14–1324–000.

Applicants: Panoche Energy Center, LLC.

Description: Order No. 784 Compliance Filing to be effective 2/18/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5104.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–1325–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: 20140214_InterchangeAgreement to be effective 1/1/2014.

Filed Date: 2/14/14.

Accession Number: 20140214–5116.

Comments Due: 5 p.m. ET 3/7/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–03846 Filed 2–21–14; 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 corporate filings:

Docket Numbers: EC14–52–000.

Applicants: Lakeswind Power Partners, LLC, Union Bank of California Leasing, Inc.

Description: Supplement to February 3, 2014 Section 203 Application of Lakeswind Power Partners, LLC, et al.

Filed Date: 2/11/14.

Accession Number: 20140211–5132.

Comments Due: 5 p.m. ET 2/24/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–950–000.

Applicants: Great Bay Energy VI, LLC.

Description: Amendment to January 3, 2014 Great Bay Energy VI, LLC tariff filing under ER14–950.

Filed Date: 2/11/14.

Accession Number: 20140211–5134.

Comments Due: 5 p.m. ET 2/21/14.

Docket Numbers: ER14–1222–001.

Applicants: PJM Interconnection, L.L.C.

Description: Errata to Correct Notice of Cancellation for SA No. 3238 (metadata) to be effective 12/31/2013.

Filed Date: 2/11/14.

Accession Number: 20140211–5115.

Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: ER14–1309–000.

Applicants: Singer Energy Group, LLC.

Description: Singer Energy Group, LLC Market Based Rate Tariff to be effective 3/15/2014.

Filed Date: 2/11/14.

Accession Number: 20140211–5107.

Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: ER14–1310–000.

Applicants: Southern California Edison Company.

Description: SGIA & Distribution Service Agreement with Victor Dry Farm Ranch A LLC to be effective 2/13/2014.

Filed Date: 2/12/14.

Accession Number: 20140212–5005.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1311–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Annual Submission by FTR Cust of Risk Managment Pol Pro and Cont to be effective 4/15/2014.

Filed Date: 2/12/14.

Accession Number: 20140212–5009.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1312–000.

Applicants: Bicent (California) Malburg LLC.

Description: First Revised MBR Tariff to be effective 2/13/2014.

Filed Date: 2/12/14.

Accession Number: 20140212–5023.

Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: ER14–1313–000.

Applicants: Sempra Generation, LLC.

Description: Sempra Generation, LLC. MBR Tariff Revision to be effective 3/1/2014.

Filed Date: 2/12/14.

Accession Number: 20140212–5055.

Comments Due: 5 p.m. ET 3/5/14.

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: February 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–03841 Filed 2–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–485–000]

Texas Gas Transmission, LLC; Notice of Availability of the Environmental Assessment for the Proposed Texas Gas Abandonment Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Texas Gas Abandonment Project (Project), proposed by Texas Gas Transmission, LLC (Texas Gas) in the above-referenced docket. Texas Gas requests authorization to abandon by transfer to a corporate affiliate portions of its existing looped pipeline system that has three different designations (Mainline Systems 26–2 and 26–1, and the Bastrop-Eunice System 26–1 pipeline); and auxiliary and associated facilities in numerous counties in Kentucky, Tennessee, Mississippi, Arkansas, and Louisiana.

The EA assesses the potential environmental effects of the activities associated with the Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

In total, the Texas Gas Abandonment Project would consist of the abandonment of about 567.8 miles of 26-inch-diameter pipeline. Texas Gas would also abandon by transfer all ancillary and associated facilities such as valves, and cathodic protection, and abandon minor facilities at 142 sites across the systems, all of which would require ground disturbing activities.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; Native American tribes; potentially affected landowners; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before March 17, 2014.

For your convenience, there are three methods you can use to file your comments with the Commission. In all instances please reference the project docket number (CP13–485–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *"eRegister."* You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP13–485). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Dated: February 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–03800 Filed 2–21–14; 8:45 am]

BILLING CODE 6717–01–P

[1] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14563–000]

Archon Energy 1, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On November 12, 2013, and February 7, 2014, Archon Energy 1, Inc. (Archon) filed and amended, respectively, an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the proposed Purisima Point Wave Park Project (project). The proposed project would be developed in a phased approach. Under a potential pilot project license, installation of several wave energy converter units would have a capacity of 5–10 megawatts (MW). Under a commercial license, a proposed project would consist of thirty-three 3–MW wave energy converter units with a capacity of 100 MW. The proposed project would have a maximum potential of 500 MW with installation of additional wave energy converter units. The requested project boundary comprises approximately 12 to 15 square nautical miles of coastal waters and lands located along the coast of Santa Barbara County, California, near the Vandenberg Air Force Base.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing or construction activities or to otherwise enter upon lands or waters owned by others without the owners' express permission.

Applicant Contact: Paul J. Grist, Archon Energy 1, Inc., 101 East Kennedy Blvd., Suite 2800, Tampa, FL 33602; (415) 377–2460.

FERC Contact: Jim Hastreiter, (503) 552–2760.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link.

For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and 5 copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14563) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–03802 Filed 2–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14565–000]

Archon Energy 1, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On November 12, 2013, and February 7, 2014, Archon Energy 1, Inc. (Archon) filed and amended, respectively, an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the proposed Morro Bay Wave Park Project (project). The proposed project would be developed in a phased approach. Under a potential pilot project license, installation of several wave energy converter units would have a capacity of 5–10 megawatts (MW). Under a commercial license, a proposed project would consist of thirty-three 3–MW wave energy converter units with a capacity of 100 MW. The proposed project would have a maximum potential of 500 MW with installation of additional wave energy converter units. The requested project boundary comprises approximately 15 square nautical miles of coastal waters and lands located along the coast of San Luis Obispo County, California, near the town of Morro Bay.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing or construction activities or to otherwise enter upon lands or waters owned by others without the owners' express permission.

Applicant Contact: Paul J. Grist, Archon Energy 1, Inc., 101 East Kennedy Blvd., Suite 2800, Tampa, FL 33602; (415) 377–2460.

FERC Contact: Jim Hastreiter, (503) 552–2760.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link.

For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and 5 copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14565) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–03803 Filed 2–21–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0321; FRL—9906–84–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Sewage Sludge Incineration Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NSPS for Sewage Sludge Incineration Units (40 CFR Part 60, Subpart LLLL) (Renewal)" (EPA ICR No. 2369.03, OMB Control No. 2060–0658), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through April 30, 2014. Public comments were previously requested via the **Federal Register** (78 *FR* 35023) on June 11, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before March 26, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0321, to: (1) EPA online, using www.regulations.gov (our preferred method), or by email to: docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The Standards of Performance for New Stationary Sources: Sewage Sludge Incineration (SSI) Units Subpart LLLL, fulfill the requirements of sections 111 and 129 of the Clean Air Act (CAA), which require EPA to promulgate New Source Performance Standard (NSPS) for solid waste incineration units. The information collection activities required by the NSPS include: siting requirements, operator training and qualification requirements, testing, monitoring and reporting requirements, one-time and periodic reports, and the maintenance of records. These activities will enable the Designated Administrator to determine initial compliance with the emission limits for the regulated pollutants, monitor compliance with operating parameters, and ensure that facilities conduct the proper planning and operator training.

Form Numbers: None.

Respondents/affected entities: Owners or operators of SSI units.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart LLLL).

Estimated number of respondents: 2 (total).

Frequency of response: Initially, semiannually, and annually

Total estimated burden: 798 hours (per year). "Burden" is defined at 5 CFR 1320.3(b).

Total estimated cost: $447,624 (per year), includes $369,556 annualized total capital/startup or operation & maintenance costs.

Changes in the Estimates: There is an increase in respondent and Agency burden in this ICR compared to the previous ICR. The increase is due to an adjustment in the estimated number of sources. The previous ICR estimated two new units subject to the standard during the initial three-year compliance period. However, recent research indicates there are still no units subject to the standard at this time. Those same two new units are expected to become subject during three-year period of this ICR, and another unit is expected to be modified and therefore also subject to the NSPS. This change in estimate also results in an increase in total capital and O&M costs.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–03769 Filed 2–21–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0130; FRL–9906–18]

Kasugamycin; Receipt of Application for Emergency Exemption for Use on Apples in Michigan; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Michigan Department of Agriculture to use the pesticide kasugamycin to treat up to 10,000 acres of apples to control fire blight. The applicant proposes the use of a new chemical which has not been registered by EPA. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 11, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0130, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about

dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What action is the agency taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the EPA Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. Michigan Department of Agriculture has requested the EPA Administrator to issue a specific exemption for the use of kasugamycin on apples to control fire blight (*Erwinia amylovora*). Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicant asserts that kasugamycin is needed to control streptomycin-resistant strains of *Erwinia amylovora,* the causal pathogen of fire blight, due to the lack of available alternatives and effective control practices; and significant economic losses will occur if this pest is not controlled.

The applicant proposes to make no more than three applications of Kasumin 2 (L) on not more than 10,000 acres of apples between April 1 and May 31, 2014 in Antrim, Berrien, Cass, Grand Traverse, Ionia, Kent, Leelanau, Montcalm, Newaygo, Oceana, Ottawa, and Van Buren counties. As currently proposed, the maximum amount of product to be applied would be 15,000 gallons.

This notice does not constitute a decision by EPA on the application itself. The regulations governing FIFRA section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient) which has not been registered by EPA. The notice provides an opportunity for public comment on the application.

The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Michigan Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 11, 2014.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2014–03859 Filed 2–21–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9907–00–OAR]

Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of document availability and request for comments.

SUMMARY: The Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012 is available for public review. Annual U.S. emissions for the period of time from 1990 through 2012 are summarized and presented by source category and sector. The inventory contains estimates of carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF_6) emissions. The inventory also includes estimates of carbon fluxes in U.S. agricultural and forest lands. The technical approach used in this report to estimate emissions and sinks for greenhouse gases is consistent with the methodologies recommended by the Intergovernmental Panel on Climate Change (IPCC), and reported in a format consistent with the

United Nations Framework Convention on Climate Change (UNFCCC) reporting guidelines. The Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012 is the latest in a series of annual U.S. submissions to the Secretariat of the UNFCCC. EPA requests recommendations for improving the overall quality of the inventory report to be finalized in April 2014, as well as subsequent inventory reports.

DATES: To ensure your comments are considered for the final version of the document, please submit your comments by March 26, 2014. However, comments received after that date will still be welcomed and considered for the next edition of this report.

ADDRESSES: Comments should be submitted to Mr. Leif Hockstad at: Environmental Protection Agency, Climate Change Division (6207J), 1200 Pennsylvania Ave. NW., Washington, DC 20460, Fax: (202) 343–2359. You are welcome and encouraged to send an email with your comments to *hockstad.leif@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Leif Hockstad, Environmental Protection Agency, Office of Air and Radiation, Office of Atmospheric Programs, Climate Change Division, (202) 343–9432, *hockstad.leif@epa.gov.*

SUPPLEMENTARY INFORMATION: The draft report can be obtained by visiting the U.S. EPA's Climate Change Site at: *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html.*

Dated: February 12, 2014.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2014–03862 Filed 2–21–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden(s) and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate(s); ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and further ways to reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 25, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at: (202) 395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0526.

Title: Section 69.123, Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 17 respondents; 17 responses.

Estimated Time per Response: 48 hours.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 201–205, 303(r), and 403.

Total Annual Burden: 816 hours.

Total Annual Cost: $13,855.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No information of a confidential nature is being sought. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission requires Tier 1 local exchange carriers (LECs) to provide expanded opportunities for third party interconnection with their interstate special access facilities. The LECs are permitted to establish a number of rate zones within study areas in which expanded interconnection are operational. In a previous rulemaking, *Fifth Report and Order,* CC Docket No. 96–262, the Commission allowed price cap LECs to define the scope and number of zones within a study area. These LECs must file and obtain approval of their pricing plans which will be used by FCC staff to ensure that the rates are just, reasonable and nondiscriminatory.

OMB Control Number: 3060–1005.

Title: Numbering Resource Optimization-Phase 3.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and State, local or Tribal Government.

Number of Respondents and Responses: 17 respondents; 17 responses.

Estimated Time per Response: 40–50 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 153, 154, 201–205, 207–209, 218, 225–227, 251–252, 271, and 332.

Total Annual Burden: 830 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential

information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission established a safety valve to ensure that carriers experiencing rapid growth in a given market will be able to meet customer demand. States may use this safety valve to grant requests from carriers that demonstrate the following:

(1) The carrier will exhaust its numbering resources in a market or rate area within three months (in lieu of six months-to-exhaust requirement); and

(2) Projected growth is based on the carrier's actual growth in the market or rate area, or in the carrier's actual growth in a reasonably comparable market, but only if that projected growth varies no more than 15 percent from historical growth in the relevant market.

The Commission lifted the ban on service-specific and technology-specific overlays (collectively, specialized overlays or SOs), allowing State commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis. To provide further guidance to State commissions, the Commission set forth the criteria that each request for delegated authority to implement a SO should address. This will enable us to examine the feasibility of SOs in a particular area, and determine whether the Commission's stated goals are likely to be met if the SO is implemented. Specifically, State commissions should also specifically address the following:

(1) The technologies or services to be included in the SO;

(2) The geographic area to be covered;

(3) Whether the SO will be transitional;

(4) When the SO will be implemented and, if a transitional SO is proposed, when the SO will become an all-services overlay;

(5) Whether the SO will include take-backs;

(6) Whether there will be 10-digit dialing in the SO and the underlying area code(s);

(7) Whether the SO and underlying area code(s) will be subject to rationing; and

(8) Whether the SO will cover an area in which pooling is taking place.

The Commission uses the information it collects to assist the State commissions in carrying out their delegated authority over numbering resources.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–03879 Filed 2–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 25, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0065.

Title: Application for New or Modified Radio Stations Authorization Under Part 5 of the FCC Rules—Experimental Radio Service.

Form No.: FCC Form 442.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal Government.

Number of Respondents: 400 respondents; 560 responses.

Estimated Time per Response: 4 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 2,240 hours.

Total Annual Cost: $32,400.00.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality:

Needs and Uses: The Commission will submit this expiring information collection after this 60 day comment period to the Office of Management and Budget (OMB) to obtain the full three year clearance. The Commission is reporting an adjustment which increases the burden estimates to this information collection. The adjustment increases the number of respondents from 200 to 400 (increase of 200), and the annual hours are increased from 1,120 to 2,240 hours (increase of 1,120). This increase is based on the average number of filings for the past 3 years. There is no change in the reporting requirements.

Mandatory electronic filing of applications for Experimental Radio licenses, including FCC Form 442 commenced on January 1, 2004.

Applicants that required an FCC licenses to operate a new or modified experimental radio station must file FCC Form 442, as required by 47 CFR 5.55 (a) through (c) and 47 CFR 5.59 of the Commission's rules. The FCC's information technician and engineers use the data supplied by applicants in FCC Form 442 to determine: (1) If the applicant is eligible for an experimental license; (2) the purpose of the experiment; (3) compliance with the requirements of part 5 of the Commission's rules; and (4) if the proposed operation will cause interference to existing operations.

Thus, the FCC cannot grant an experimental license without the information contained on this form.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–03744 Filed 2–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before April 25, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0717.

Title: Billed Party Preference for InterLATA 0+ Calls, CC Docket No. 92–77, 47 CFR Sections 64.703(a), 64.709, 64.710.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,418 respondents; 11,250,150 responses.

Estimated Time per Response: 1 minute (.017 hours)—50 hours.

Frequency of Response: Annual and on-occasion reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is found at 47 U.S.C. 226, Telephone Operator Services, Pub. L. 101–435, 104 Stat. 986, codified at 47 CFR 64.703(a) Consumer Information, 64.709 Informational Tariffs, and 64.710 Operator Services for Prison Inmate Phones.

Total Annual Burden: 205,023 hours.

Total Annual Cost: 126,750.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impacts(s).

Needs and Uses: Pursuant to 47 CFR 64.703(a), Operator Service Providers (OSPs) are required to disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate call, how to obtain rate quotations, including any applicable surcharges. 47 CFR 64.710 imposes similar requirements on OSPs to inmates at correctional institutions. 47 CFR 64.709 codifies the requirements for OSPs to file informational tariffs with the Commission. These rules help to ensure that consumers receive information necessary to determine what the charges associated with an OSP-assisted call will be, thereby enhancing informed consumer choice in the operator services marketplace.

OMB Control Number: 3060–1182.

Title: Section 64.604(c)(9), Emergency Interim Rule for Registration and Documentation of Disability for Eligibility to Use IP Captioned Telephone Service, CG Docket Nos. 13–24 and 03–123.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households.

Number of Respondents and Responses: 12,004 respondents; 24,000 responses.

Estimated Time per Response: 30 minutes (.50 hours) to 1 hour.

Frequency of Response: On-going reporting requirement; One-time reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired and Speech-Impaired Individuals; The Americans with Disabilities Act of 1990 (ADA), Public Law 101–336, 104 Stat. 327, 366–69, enacted on July 26, 1990.

Total Annual Burden: 18,000 hours.

Total Annual Cost: $600,000.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not involve the collection of personally identifiable information by the government from individuals.

Privacy Impact Assessment: No impacts(s).

Needs and Uses: The Commission seeks to extend OMB approval of OMB Control Number 3060–1182 for a period of three years. The interim rules containing these collections, which were adopted in the *IP CTS Interim Order,* published at 78 FR 8032, February 5, 2013, will remain in effect until the corresponding final rules, adopted by the Commission in the *IP CTS Reform Order,* published at 78 FR 53684, August 30, 2013, take effect. On December 6, 2013, the United States Court of Appeals for the District of Columbia Circuit granted in part a motion by Sorenson Communications, Inc. (Sorenson) seeking a stay of certain of the final rules. *See Sorenson Communications, Inc. and CaptionCall, LLC* v. *FCC,* D.C. Cir., No. 13–1246, December 6, 2013, at 1–2 (*Stay Order*). Specifically, the Court stayed "the rule adopted by the Commission prohibiting compensation to providers for minutes of use generated by equipment consumers received from providers for free or for less than $75." For the purpose of maintaining the *status quo* until the court issues a final ruling in court proceedings No. 13–1246 and consolidated No. 13–1122, the Commission therefore seeks to extend OMB approval of OMB Control Number 3060–1182 for a period of three years.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–03745 Filed 2–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden(s) and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate(s); ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and further ways to reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 25, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at: (202) 395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0989.

Title: Sections 63.01, 63.03, 63.04, Procedures for Applicants Requiring Section 214 Authorization for Domestic Interstate Transmission Lines Acquired Through Corporate Control.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents of Responses: 92 respondents; 92 responses.

Estimated Time per Response: 1.5–12 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection is contained in 47 U.S.C. 152, 154(i)–(j), 201, 214, and 303(r).

Total Annual Burden: 1,031 hours.

Annual Cost Burden: $89,250.

Privacy Act Impact Assessment: No impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality. The FCC is not requiring applicants to submit confidential information to the Commission. If applicants want to request confidential treatment of the documents they submit to Commission, they may do so under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: A *Report and Order,* FCC 02–78, adopted and released in March 2002 (*Order*), set forth the procedures for common carriers requiring authorization under section 214 of the Communications Act of 1934, as amended, to acquire domestic interstate transmission lines through a transfer of control. Under section 214 of the Act, carriers must obtain FCC approval before constructing, acquiring, or operating an interstate transmission line. Acquisitions involving interstate common carriers require affirmative action by the Commission before the acquisition can occur. This information collection contains filing procedures for domestic transfer of control applications under sections 63.03 and 63.04. The FCC filing fee amount for section 214 applications is currently $1,050 per application, which reflects an increase of the previous fee of $1,015 per application. (a) Sections 63.03 and 63.04 require domestic section 214 applications involving domestic transfers of control, at a minimum, should specify: (1) The name, address and telephone number of each applicant; (2) the government, state, or territory under the laws of which each corporate or partnership applicant is organized; (3) the name, title, post office address, and telephone number of the officer or contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed; (4) the name, address, citizenship and principal business of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one percent); (5) certification pursuant to 47 CFR 1.2001 that no party to the application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988; (6) a description of the transaction; (7) a description of the geographic areas in which the transferor and transferee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area; (8) a statement as to how the application fits into one or more of the presumptive streamlined categories in section 63.03 or why it is otherwise appropriate for streamlined treatment; (9) identification of all other Commission applications related to the same transaction; (10) a statement of whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure; (11) identification of any separately filed waiver request being sought in conjunction with the transaction; and (12) a statement showing how grant of the application will serve the public interest, convenience, and necessity, including any additional information that may be necessary to show the effect of the proposed transaction on competition in domestic markets. Where an applicant wishes to file a joint international section 214 transfer of control application and domestic section 214 transfer of control application, the applicant must submit information that satisfies the requirements of 47 CFR 63.18. In the attachment to the international application, the applicant must submit information described in 47 CFR 63.04(a)(6). When the Commission,

acting through the Wireline Competition Bureau, determines that applicants have submitted a complete application qualifying for streamlined treatment, it shall issue a public notice commencing a 30-day review period to consider whether the transaction serves the public interest, convenience and necessity. Parties will have 14 days to file any comments on the proposed transaction, and applicants will be given 7 days to respond. (b) Applicants are not required to file post-consummation notices of pro forma transactions, except that a post transaction notice must be filed with the Commission within 30 days of a pro forma transfer to a bankruptcy trustee or a debtor-in-possession. The notification can be in the form of a letter (in duplicate to the Secretary, Federal Communications Commission). The letter or other form of notification must also contain the information listed in sections (a)(1). A single letter may be filed for more than one such transfer of control. The information will be used by the Commission to ensure that applicants comply with the requirements of 47 U.S.C. 214.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–03878 Filed 2–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning: (a) Whether the proposed collection(s) of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection(s) of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 25, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Leslie F. Smith, Federal Communications Commission (FCC), via email *PRA@fcc.gov* or to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information the information collection, contact Leslie F. Smith at (202) 418–0217.

SUPPLEMENTARY INFORMATION: The Commission received OMB reinstatement of two information collections, 3060–0370 and 3060–0741, under the emergency processing provisions of the PRA, 5 CFR 1320.5, 1320.8(d), and 1320.13 on February 12, 2014.

OMB Control Number: 3060–0370.

Title: Part 32, Uniform System of Accounts for Telecommunications Companies.

Form Number: N/A.

Type of Review: Reinstatement without change of a previously approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents and Responses: 859 respondents; 859 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 11, 151, 154, 161, 201–205, 215, and 218–220.

Total Annual Burden: 859 hours.

Total Annual Cost: No cost(s).

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the Commission. If the Commission requests applicants to submit information that the respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission, in 2004, adopted the Joint Conference's recommendations to reinstate the following Part 32 accounts:

Account 5230, Directory revenue;

Account 6621, Call completion services;

Account 6622, Number services;

Account 6623, Customer services;

Account 6561, Depreciation expense-telecommunications plant in service;

Account 6562, Depreciation expense-property held for future telecommunications use;

Account 6563, Amortization expense-tangible;

Account 6564, Amortization expense-intangible; and

Account 6565, Amortization expense-other.

These accounting changes are mandatory only for Class A Incumbent Local Exchange Carriers (ILECs). The reinstatement of these accounts imposed a minor increase in burden only Class A ILECs only. The Commission also established a recordkeeping requirement that Class A ILECs maintain subsidiary record categories for unbundled network element revenues, resale revenues, reciprocal compensation revenues, and other interconnection revenues in the accounts in which these revenues are currently recorded. The use of subsidiary record categories allows carriers to use whatever mechanisms they choose, including those currently in place, to identify the relevant amounts as long as the information can be made available to state and federal regulators upon request. The use of subsidiary record categories for interconnection revenue does not require massive changes to the ILECs' accounting systems and is a far less burdensome alternative than the creation of new accounts and/or subaccounts. The information submitted to the Commission by carriers provides the necessary detail to enable the Commission to fulfill its regulatory responsibilities.

OMB Control Number: 3060–0741.

Title: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96–98, Second Report and

Order and Memorandum Opinion and Order; Second Order on Reconsideration; CC Docket No. 99–273, First Report and Order.

Form Number: N/A.

Type of Review: Reinstatement without change of a previously approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 5,907 respondents; 573,767 responses.

(The respondents are now more likely to be using advanced IT software, automation, and standardized business practices to respond to a request for the sharing of directory listings, which accounts for their ability to provide a greater number of responses each year with a reduced incremental burden.)

Estimated Time per Response: 1 hour to 547,500 hours.

Frequency of Response: Annual, on occasion, and one time reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 153, 154, 201, 222 and 251.

Total Annual Burden: 575,448 hours.

Total Annual Cost: No cost(s).

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests that carriers or providers submit information which they believe is confidential, the carriers or providers may request confidential treatment of their information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: In April 1996, the Commission issued a *Notice of Proposed Rulemaking (NPRM)* concerning certain provisions in the Telecommunications Act of 1996 ("the Act"), including section 251. Section 251 is designed to accelerate private sector development and deployment of telecommunications technologies and services by spurring competition. The Commission adopted rules and regulations designed to implement certain provisions of section 251, and to eliminate operational barriers to competition in the telecommunications services markets.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–03743 Filed 2–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 13–225; DA 13–2409]

DISH Network Corporation, Petition for Waiver and Request for Extension of Time

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (Commission), Wireless Telecommunications Bureau provides notice of a *Memorandum Opinion and Order* in which it granted waivers to DISH Network Corporation, subject to certain conditions, in response to a petition filed by DISH to provide DISH with flexibility to elect whether to use 20 megahertz of Advanced Wireless Services–4 (AWS–4) spectrum at 2000–2020 MHz (the Lower AWS–4 Band) for uplink or downlink operations.

FOR FURTHER INFORMATION CONTACT: Matthew Pearl, Broadband Division, Wireless Telecommunications Bureau, at (202) 418–2607 or by email at *Matthew.Pearl@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* DA 13–2409, adopted and released on December 20, 2013. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text of the *Memorandum Opinion and Order* and related Commission documents may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via email at the Commission's Web site at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA 13-2409A1.docx.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365, or via email to *bmillin@fcc.gov.*

Summary

1. On December 20, 2013, the Wireless Telecommunications Bureau (the Bureau) granted to DISH Network Corporation (DISH) waivers of the Commission's rules, subject to certain conditions, in response to a petition filed by DISH to provide DISH with flexibility to elect whether to use 20 megahertz of Advanced Wireless Services–4 (AWS–4) spectrum at 2000–2020 MHz (the Lower AWS–4 Band) for uplink or downlink operations. The Bureau also waived DISH's final AWS–4 build-out milestone, extending the deadline from seven to eight years. *See* DISH Network Corporation, *Petition for Waiver of §§ 27.5(j) and 27.53(h)(2)(ii) and Request for Extension of Time,* WT Docket No. 13–225 (filed Sept. 9, 2013) ("DISH Petition"). DISH filed its waiver request on behalf of itself and its wholly owned subsidiaries Gamma Acquisitions L.L.C. and New DBSD Satellite Services G.P. *Id.* at 1. This Summary refers to DISH Network Corporation and these subsidiaries collectively as "DISH." In granting this relief, the Bureau determined that, provided DISH complies with several conditions, the request meets the Commission's general waiver standard as well as requirements specific to wireless services. The decision to grant DISH an extension of time and the flexibility to elect whether to use the Lower AWS–4 Band for uplink or downlink operations was effective upon release of the *Memorandum Opinion and Order* on December 20, 2013.

2. The Bureau's grant of the requested waivers was subject to DISH meeting the following two conditions. First, pursuant to commitments made in its waiver request, DISH must bid in the upcoming H Block auction "either directly or indirectly through an affiliated entity or designated entity, at least a net clearing price" equal to the aggregate reserve price set for that auction of $1.564 billion. *See* Auction of H Block Licenses in the 1915–1920 MHz and 1995–2000 MHz Bands Scheduled for January 14, 2014; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and other Procedures for Auction 96, AU Docket No. 13–178, *Public Notice,* 28 FCC Rcd 13019, 13064 para. 172 (WTB 2013) (*"Auction 96 Procedures PN"*); NTCH, Inc. Petition for Reconsideration of Public Notice Announcing Procedures and Reserve Price for Auction of H Block Licenses (Auction 96), AU Docket No. 13–176, *Memorandum Opinion and Order,* DA 13–2281 (WTB/Auctions Division, Nov. 27, 2013) (*"Auction 96 Procedures PN Recon Order"*). Second, DISH must file its uplink or downlink election, which shall apply to all AWS–4 licenses, as soon as commercially practicable but no later than 30 months after the release date of the Bureau's *Memorandum Opinion and Order.* Failure by DISH to comply with either of these conditions will automatically terminate the waivers

granted in the Bureau's *Memorandum Opinion and Order.*

3. In the event that DISH first preserves its election ability and then elects to use its Lower AWS–4 Band spectrum for downlink operations, the Bureau specified the technical parameters such operations must meet to avoid causing harmful interference to licensees of nearby spectrum bands. These parameters are similar to those established for similar AWS and PCS downlink bands, including the AWS–1 downlink band.

4. In granting the DISH Petition, the Bureau declined to grant Sprint's request that it impose a specific cost sharing payment condition upon DISH should it be a winning bidder in the H Block auction, because that payment requirement is already established by the Commission's rules applicable to any winning bidder in that auction. The Bureau also declined to address in the *Memorandum Opinion and Order* Sprint's request that it issue a blanket waiver to all future H Block licensees of certain H Block technical rules. Finally, the Bureau rejected NTCH's various arguments requesting that it deny or delay consideration of the DISH Petition.

Federal Communications Commission.

Blaise A. Scinto,

Chief, Broadband Division, Wireless Telecommunications Bureau.

[FR Doc. 2014–03888 Filed 2–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request Re: Regulatory Capital Rules

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on the proposed extension, without change, of its information collection entitled *Regulatory Capital Rules* (OMB No. 3064–0153). A copy of previous information collection requests (ICRs) associated with this collection may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. Previous ICRs are also available at reginfo.gov (*http://www.reginfo.gov/public/do/PRAMain*).

DATES: Comments must be submitted on or before April 25, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION: This notice requests public comment on the FDIC's request for extension of OMB's approval of the Regulatory Capital Rules information collection more fully described below. OMB approved the ICR under emergency procedures for review and clearance in accordance with the PRA. The FDIC is not proposing any changes to the existing ICR at this time. A description of the collection and the current burden estimates follows:

Proposal To Extend the Following Currently Approved Collection of Information

Title: Regulatory Capital Rules.

OMB Number: 3064–0153.

Affected Public: State nonmember banks, state savings associations, and certain subsidiaries of those entities.

Estimated Number of Respondents: Advanced approaches—8; Minimum capital ratios—4,571; Standardized approach—4,571.

Frequency of response: Occasional.

Estimated Time per Response: Varied.

Total Estimated Annual Burden: 737,275 hours.

General Description of Collection: This collection comprises the disclosure and recordkeeping requirements associated with minimum capital requirements and overall capital adequacy standards for insured state nonmember banks, state savings associations, and certain subsidiaries of those entities. The capital standards are consistent with agreements reached by the Basel Committee on Banking Supervision (BCBS) in "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems," and with section 171 of the Dodd-Frank Act, which requires establishment of minimum risk-based and leverage capital requirements, and with section 939A of the Dodd-Frank Act, which requires the use of alternatives to credit ratings for calculating risk-weighted assets. The data is used by the FDIC to evaluate capital before approving various applications by insured depository institutions, to evaluate capital as an essential component in determining safety and soundness, and to determine whether an institution is subject to prompt corrective action provisions.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 19th day of February, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–03818 Filed 2–21–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL LABOR RELATIONS AUTHORITY

[FLRA Docket No. WA–RP–13–0052]

Notice of Opportunity To Submit Amici Curiae Briefs in a Representation Proceeding Pending Before the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested persons to submit briefs as amici curiae on a significant issue arising in a case pending before the Authority. The Authority is considering this case pursuant to its responsibilities under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101–7135 (the Statute), and its regulations, set forth at 5 CFR part 2422. The issue concerns whether § 7111(f)(3) of the Statute and § 2422.12(d) of the Authority's Regulations apply to decertification petitions filed by individuals. As this matter is likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amici briefs addressing this question.

DATES: Briefs must be received on or before March 31, 2014.

ADDRESSES: Mail or deliver briefs to Gina K. Grippando, Chief, Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW., Washington, DC 20424–0001.

FOR FURTHER INFORMATION CONTACT: Gina K. Grippando, Chief, Case Intake and Publication, Federal Labor Relations Authority, (202) 218–7740.

SUPPLEMENTARY INFORMATION: On February 18, 2014, the Authority granted an application for review of the Regional Director's (RD's) decision and order dismissing the petition in *National Aeronautics & Space Administration, Goddard Space Flight Center, Wallops Island, Virginia*, Case No. WA–RP–13–0052, 67 FLRA 258 (2014) (*NASA*) (Member DuBester concurring). A summary of the case follows.

1. Background and RD's Decision

An individual (Petitioner) filed a petition for an election to decertify the Exclusive Representative as the labor organization representing certain employees. The Exclusive Representative claimed that the petition was untimely. In this regard, the Exclusive Representative argued that there was a lawful, written collective-bargaining agreement between the Agency and the Exclusive Representative, and that the agreement acted as a bar to the petition because the Petitioner did not file the petition within the open period set forth in § 7111(f)(3) of the Statute.

The RD stated that, in order for a decertification petition to be timely under § 7111(f)(3)(B) of the Statute, it must be filed not more than 105 days and not less than sixty days before the expiration of a collective-bargaining agreement. In addition, she found that § 2422.12(d) of the Authority's Regulations governs a determination as to whether a petition is timely.

The RD determined that there was a collective-bargaining agreement between the Agency and the Exclusive Representative, and that the agreement expired on October 23, 2013. Based on that expiration date, the RD found that the open period for filing the petition ran from July 10, 2013, the 105th day before the agreement expired, to August 26, 2013, the 60th day before the agreement expired. The RD stated that the Petitioner filed his petition on June 17, 2013—outside this period—and, therefore, that the petition was untimely. Accordingly, she dismissed the petition.

2. Application for Review

The Petitioner filed an application for review of the RD's decision. The Petitioner argued that the Authority should grant his application because the RD's decision raised an issue for which there is an absence of precedent. Specifically, the Petitioner claimed that the Authority has never specifically held that the open period described in § 7111(f)(3) of the Statute applies to decertification petitions filed by individuals. The Petitioner based this claim on the Authority's decision in *90th Regional Support Command, Little Rock, Arkansas*, 56 FLRA 1041 (2000) (*Support Command*) (Chairman Wasserman concurring), *order granting application for review vacated and application dismissed as moot*, 57 FLRA 31 (2001).

3. Question on Which Briefs Are Solicited

Based on *Support Command*, the Authority found, in *NASA*, that there is an absence of precedent as to whether § 7111(f)(3) of the Statute and § 2422.12(d) of the Authority's Regulations apply to decertification petitions filed by individuals, and it granted the application for review on this basis. The Authority directed the parties to file briefs addressing the following question:

Do § 7111(f)(3) of the Statute and § 2422.12(d) of the Authority's Regulations apply to decertification petitions filed by individuals?

In answering that question, the parties should address any pertinent considerations of: (1) Statutory construction; (2) legislative history; (3) applicable precedent; and (4) policy.

4. Required Format for Briefs

All briefs shall be captioned "*National Aeronautics & Space Administration, Goddard Space Flight Center, Wallops Island, Virginia*, Case No. WA–RP–13–0052." Briefs shall contain separate, numbered headings for each issue covered. Interested persons must submit an original and four (4) copies of each amicus brief, with any enclosures, on 8½ x 11 inch paper. Briefs must include a signed and dated statement of service that complies with the Authority's Regulations showing service of one copy of the brief on all counsel of record or other designated representatives, 5 CFR 2429.27(a) and (c), as well as the Federal Labor Relations Authority Regional Director involved in this case. Accordingly, briefs must be served on: Linda Ledman, Acting Labor Relations Officer, NASA/GSFC, 8800 Greenbelt Road, Greenbelt, MD 20771; Ronald Walsh, Individual, 3196 Windrows Way, Eden, MD 21822; Cathie McQuiston, Deputy General Counsel, American Federation of Government Employees, AFL–CIO, 80 F Street NW., Washington, DC 20001; and Barbara Kraft, Regional Director, Federal Labor Relations Authority, Washington Regional Office, 1400 K Street NW., Second Floor, Washington, DC 20424. Interested persons may obtain copies of the Authority's decision granting the application for review in this case on the FLRA's Web site, *www.flra.gov*, or by contacting the Authority's Office of Case Intake and Publication at the address set forth above or at the telephone number below.

Dated: February 19, 2014.

Gina K. Grippando,

Chief, Case Intake and Publication.

[FR Doc. 2014–03903 Filed 2–21–14; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 14–01]

Possible Revocation of Ocean Transportation Intermediary License No. 022025 Cargologic USA LLC; Order To Show Cause

February 18, 2014. The Federal Maritime Commission (Commission) deems it appropriate and in the public interest that a proceeding be, and hereby is, instituted pursuant to sections 11 and 19 of the Shipping Act of 1984 (Shipping Act), 46 U.S.C. §§ 41302 and 40903, directing respondent Cargologic USA LLC a licensed non-vessel-operating common carrier (NVOCC) and ocean freight forwarder (OFF), to show cause why its Ocean Transportation Intermediary license should not be revoked for cause.

Based on information provided to it, the Commission's Bureau of Enforcement makes the following allegations:

Statement of Facts Constituting Basis for Commission Action

1. Cargologic USA LLC (Cargologic) is a New York limited liability company, organized in July 2005.

2. Cargologic has been licensed to operate as an ocean transportation intermediary (OTI) pursuant to FMC license No. 022025 since September 2011.

3. According to records maintained by the Commission's Bureau of Certification and Licensing (BCL), Cargologic maintains its principal offices at 182–16 149th Road—Suite 212, Springfield Gardens, New York 11413.

4. BCL records identify the principal of Cargologic as Alex Epshteyn, President and Secretary.

5. Matvey Gurfinkel was approved as the sole Qualifying Individual (QI) for Cargologic.

6. Upon information and belief, Mr. Gurfinkel was no longer employed with nor serving as QI for Cargologic as of March 2013.

7. By correspondence mailed March 25, 2013 to Cargologic's principal office, BCL notified Cargologic of the Commission's requirement that all OTI licensees must maintain an active QI.

8. By correspondence mailed November 21, 2013 to Cargologic's principal office, BCL again notified Cargologic of the Commission's requirement that all OTI licensees must maintain an active QI.

9. By correspondence emailed December 11, 2013 to Mr. Epshteyn, BCL again notified Cargologic of the Commission's requirement that all OTI licensees must maintain an active QI.

10. The March 25, 2013 and November 21, 2013 letters requested Cargologic to timely comply with Commission regulations by submitting an application to replace its QI.

11. The December 11, 2013 email requested Cargologic to timely comply with Commission regulations by submitting an application to replace its QI.

12. Cargologic has neither responded to BCL's letters nor submitted an application for a replacement QI.

The Commission's Jurisdiction and Requirements of Law

13. Under 46 U.S.C. § 41302(a), the Commission is empowered to investigate any conduct or agreement that the Commission believes may be in violation of the Shipping Act.

14. Section 19 (c) of the Shipping Act, 46 U.S.C. § 40903 (a), provides that the Commission:

> . . . after notice and opportunity for hearing, shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary—(1) is not qualified to provide intermediary services; or (2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

15. The Commission's implementing regulations at 46 CFR § 515.16(a) provide that an OTI license be revoked or suspended for any of the following reasons:

(i) Violation of any provision of the Act, or any other statute or Commission order or regulation related to carrying on the business of an ocean transportation intermediary;

(ii) Failure to respond to any lawful order or inquiry by the Commission;

(iii) Making a materially false or misleading statement to the Commission in connection with an application for a license or an amendment to an existing license;

(iv) Where the Commission determines that the licensee is not qualified to render intermediary services; or

(v) Failure to honor the licensee's financial obligations to the Commission.

16. Commission regulations at 515.11(b) require all licensees to maintain an active QI. 46 CFR § 515.11(b).

17. Commission regulations at 515.12(d) require each licensee to notify the Commission of any changes in fact to its original license application (form FMC–18) within thirty (30) days after such change(s) occurs. 46 CFR § 515.12(d).

18. Commission regulations at 515.18(c) require that, when a QI no longer serves in a full-time active capacity with the licensee, the licensee must furnish to the Commission the name(s) and detailed intermediary experience of any officer who may qualify the licensee within thirty (30) days after its QI no longer serves in an active capacity. 46 CFR § 515.18(c).

19. Commission regulations at 515.31(g) require licensees to respond promptly to any lawful inquiries from any authorized representative of the Commission. 46 CFR § 515.31(g).

Basis for Revocation or Suspension of Respondent's Oti License

20. The Commission previously has found that the sanction of revocation is appropriate when the Commission can no longer rely upon the honesty and integrity of the licensee, or of its principals, to the extent necessary to insure future conduct within the confines of the statutes and regulations. *AAA Nordstar Line Inc.—Revocation of License No. 12234,* 29 S.R.R. 663 (FMC, 2002); *Independent Ocean Freight Forwarder License—E.L. Mobley Inc.,* 21 F.M.C. 845 (FMC, 1979); *Independent Ocean Freight Forwarder Application—Lesco Packing Inc.,* 19 F.M.C. 132 (FMC, 1976).

21. The Commission also will issue cease and desist orders based on demonstrated Shipping Act violations and revocation of OTI licenses. *Revocation of Ocean Transportation Intermediary License No. 021899—Trans World Logistics Corp.,* 32 S.R.R. 758 (FMC, 2012); *Revocation of OTI License No. 016019N—Central Agency of Florida, Inc.,* 31 S.R.R. 486 (FMC, 2008); *Commonwealth Shipping Ltd.—Materially False Statements,* 29 S.R.R. 1408 (FMC, 2003).

22. Cargologic's failure to submit to the Commission an amended Form FMC–18 Rev. advising BCL of changes in the OTI's QI and officers within thirty (30) days after such changes occurred establish that Cargologic is no longer qualified to provide intermediary services within the meaning of 46 U.S.C. § 40903.

23. Cargologic's failure to respond to lawful inquiries from the Commission establish that Cargologic is no longer qualified to provide intermediary services within the meaning of 46 U.S.C. § 40903.

24. Cargologic has failed to maintain an active QI since March, 2013, in violation of 46 CFR § 515.11(b).

25. Cargologic has failed to timely notify the Commission of Mr. Gurfinkel's separation from Cargologic, in violation of 46 CFR § 515.12(d).

26. Cargologic has failed to timely replace its QI, in violation of 46 CFR § 515.18(c).

27. Cargologic has failed to respond to BCL's correspondence of March 25, 2013, November 21, 2013, and December 11, 2013, in violation of 46 CFR § 515.31(g).

28. Cargologic is no longer qualified to provide intermediary services within the meaning of 46 CFR § 515.16(a).

Order

Now therefore, it is ordered That, pursuant to Sections 11, 14 and 19 of the Shipping Act, 46 U.S.C. §§ 41302, 41304, 40903(a)(2), Cargologic USA LLC is directed to show cause no later than March 21, 2014, why the Commission should not revoke its license inasmuch as the licensee is otherwise not qualified to render intermediary services;

It is further ordered That, pursuant to Sections 11, 14 and 19 of the Shipping Act, 46 U.S.C. §§ 41302, 41304, 40903(a)(2), Cargologic USA LLC is directed to show cause, no later than March 21, 2014, why the Commission should not order it to cease and desist from operating as an ocean transportation intermediary in the foreign trade of the United States inasmuch as the licensee is otherwise not qualified to render intermediary services;

It is further ordered That, this proceeding be limited to the submission of affidavits of fact and memoranda of law;

It is further ordered That, any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 68 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.68. Such petition shall be accompanied by the petitioner's memorandum of law and affidavit of fact, if any, and shall be filed no later than March 21, 2014;

It is further ordered That, Cargologic USA LLC be named as Respondent in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondent and any intervenors in support of Respondent no later than March 21, 2014;

It is further ordered That, the Commission's Bureau of Enforcement (BOE) be made a party to this proceeding;

It is further ordered That, reply affidavits and memoranda of law shall be filed by BOE and intervenors in opposition to Respondent no later than April 7, 2014;

It is further ordered That:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit; and

(b) Any request for evidentiary hearing shall be filed no later than April 7, 2014;

It is further ordered That, notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon Respondent at its last known address;

It is further ordered That, all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 2 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.2, as well as mailed directly to all parties of record;

Finally, it is ordered That, pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.61, the final decision of the Commission in this proceeding shall be issued no later than June 24, 2014.

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–03731 Filed 2–21–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 11, 2014.

A. Federal Reserve Bank of Minneapolis (Jacqueline K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Michael R. Heebink, individually and as co-trustee of the Shirley E Heebink Family Trust, and as part of the group acting in concert with the Shirley E Heebink Trust; its co-trustees Shirley E Heebink, and Michael R. Heebink; and Mary Heebink, all of Baldwin, Wisconsin, and the Rasmussen Group, which includes Dane L. Rasmussen, the Debra L Rasmussen Irrevocable Trust Dated December 18, 2012, with Dane L Rasmussen, as trustee; Jack Rasmussen, all of Baldwin, Wisconsin; Emily Shimota, Inver Grove Heights, Minnesota; Sidney Rasmussen, St. Paul, Minnesota; Lynne VanDeelen, Duluth, Minnesota; and Nancy Fox, Maplewood, Minnesota;* as a group acting in concert to retain voting shares of Baldwin Bancshares, Inc., and thereby indirectly retain voting shares of First Bank of Baldwin, both in Baldwin, Wisconsin.

Board of Governors of the Federal Reserve System, February 19, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–03815 Filed 2–21–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Announcement of Public Workshop, "Examining Health Care Competition"

AGENCY: Federal Trade Commission.

ACTION: Notice of public workshop and opportunity for comment.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") will hold a public workshop, "Examining Health Care Competition," on March 20–21, 2014, to study certain activities and trends that may affect competition in the evolving health care industry. The workshop will explore current developments related to professional regulations; innovations in health care delivery; advancements in health care technology; measuring and assessing health care quality; and price transparency for health care services. This notice poses a series of questions upon which the FTC seeks public comment. The Commission will consider these comments as it prepares for the workshop and may use them in a subsequent report or policy paper.

DATES: The workshop will be held on March 20–21, 2014, in the Conference Center of the FTC office building at 601 New Jersey Avenue NW., Washington, DC. For additional information, visit the workshop Web site at *http://www.ftc.gov/news-events/events-calendar/2014/03/examining-health-care-competition*. Prior to the workshop,

the Commission will publish an agenda and additional information on its Web site. To be considered for the workshop, comments in response to this notice must be submitted by March 10, 2014. In addition, any interested person may submit written comments in response to this notice and workshop discussions until April 30, 2014.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the **SUPPLEMENTARY INFORMATION** section below. Write "Health Care Workshop, Project No. P131207" on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/healthcareworkshop* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex X), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Patricia Schultheiss, Attorney Advisor, Office of Policy Planning, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, 202–326–2877, or Karen Goldman, Attorney Advisor, Office of Policy Planning, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, 202–326–2574, *examininghealthcareworkshop@ftc.gov*. For more detailed information about the workshop, including an agenda, please visit the workshop Web site: *http://www.ftc.gov/news-events/events-calendar/2014/03/examining-health-care-competition*.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission seeks to better understand the competitive dynamics of evolving health care product and service markets. Information obtained during this workshop will enrich the Commission's knowledge in this critical sector of the economy and thereby support the Commission's enforcement, advocacy, and consumer education efforts. The workshop will consider issues related to the professional regulation of health care practitioners; innovations in health care delivery; advancements in health care technology; developments in measuring and assessing health care quality; and recent efforts to make price information for health care services more transparent. The Commission may convene subsequent workshops in the near future to examine additional competition issues in the health care industry.

Professional Regulation of Health Care Providers

The Commission has long been interested in the competitive implications of professional regulation in health care.[1] The Commission seeks to inform itself of new developments and refine its understanding of the ways in which professional regulations governing the scope of practice for health care providers may affect competition.

Professional regulations may protect patient safety, improve quality of care, and provide useful information to consumers who are choosing among health care providers. Greater competition may result when regulatory changes expand the number of health care providers or services available to consumers by increasing the use of advanced practice nurses, dental therapists, and other qualified non-physician or non-dentist professionals. Such increased competition may provide consumers with benefits such as lower prices and improved access to health care services. Some regulations may, however, unnecessarily restrict the ability of non-physician health care professionals to practice to the full extent of their training, imposing costly limitations on professional services without well-founded consumer safety justifications or other consumer benefits to offset those costs. Such overly restrictive professional regulations are likely to suppress beneficial competition by non-physician health care providers and may prevent institutional providers (such as hospitals) from developing innovative health care delivery models that rely more heavily on non-physician providers to provide efficient, safe care. While all patients may be affected by reduced competition from non-physician health care professionals, the impact may be particularly severe for vulnerable and underserved patient populations.

In the workshop, the Commission intends to study developments in the regulation of health care professionals, including accreditation, credentialing, licensure, and supervision/cooperation requirements. The Commission also intends to examine scope of practice issues in emerging health care professions, such as dental therapy and care coordination.

The Commission invites public comment on questions relevant to this topic, including:

- What recent developments have occurred in the regulation of health care professionals, particularly with respect to accreditation, credentialing, licensure, and supervision/cooperation requirements?
- What are the consequences of such regulations? To what extent are these regulations necessary to protect consumers or serve other important state interests? How do they affect the supply of services, patient safety, costs, care coordination, and quality of care?
- Is there evidence that quality of care is improved when professional regulations are narrowly tailored to protect patient safety while facilitating greater deployment of non-physician or non-dentist health care professionals?
- Do professional regulations affect staffing decisions at health care facilities? If so, how?
- To what extent might professional regulations unnecessarily restrict the scope of practice of non-physician or non-dentist health care professionals?
- What is the relationship between professional regulations and competition? Would changes to professional regulations enhance competition among health care providers? If so, what changes would be desirable?
- What is the relationship between professional regulations and access to care, especially for vulnerable and underserved patient populations?
- To what extent do professional regulations vary by state? Does state-by-state variation affect patient health, health care spending, or other important measures?
- How do current regulations concerning licensure and credentialing affect the ability of health care professionals to relocate or practice in more than one geographic area, particularly across state lines?
- Would greater state-to-state licensure portability improve competition? What issues would increased licensure portability raise?

[1] *See, e.g.*, FTC & U.S. Dep't of Justice ("DOJ"), *Improving Health Care: A Dose Of Competition* (2004), *ovoiloble ot http://www.ftc.gov/reports/healthcore/040723healthcarerpt.pdf;* FTC Staff Comment Before the Massachusetts House of Representatives Regarding House Bill 6 (H.2009) Concerning Supervisory Requirements for Nurse Practitioners and Nurse Anesthetists (Jan. 2014), *ovoilable ot http://www.ftc.gav/sites/default/files/documents/odvacacy_dacuments/ftc-staff-camment-massachusetts-hause-representatives-regarding-hause-bill-6-h.2009-cancerning-supervisory-requirements-nurse-practitioners-nurse-onesthetists/140123mossachusettnursesletter.pdf;* Letter from FTC Staff to Hon. Timothy Burns, Louisiana Legislature (May 1, 2009) (regarding proposed restrictions on mobile dentistry), *ovoiloble ot http://www.ftc.gov/policy/policy-octians/advocacy-filings/2009/05/ftc-stoff-camment-lauisiana-hause-representatives-0;* FTC Staff Comment Before the Kentucky Cabinet for Health and Family Services Concerning Regarding Proposed Rule to Regulate Limited Service Clinics (Jan. 2010), *available at http://www.ftc.gav/as/2010/02/100202kycomment.pdf.*

• How do professional regulations affect reimbursement for health care services? Do professional regulations lead to reimbursement policies that reduce incentives for health care competition?

• What is the relationship between accreditation of education programs and professional regulation? To what extent do accreditation standards affect competition? Would changes to accreditation standards enhance competition among health care providers? If so, what changes would be desirable?

• Are there other factors that should be considered when analyzing the competitive implications of professional regulation in health care?

Innovations in Health Care Delivery

Several new models for health care delivery, including retail clinics and telemedicine, have emerged in recent years, spurring additional competition in the provision of health care services. These models may offer significant cost savings while maintaining, or even improving, quality of care. These models may also increase the supply of health care services, which may expand consumer access to care. The Commission seeks to better understand the potential benefits of these new health care delivery models.

The Commission invites public comment on questions relevant to this topic, including:

• What are the prevalent and emerging forms of health care delivery?

• To what extent are health care services being delivered in new formats and locations, such as retail clinics? What trends are projected in the future?

• What are the competitive implications of the increased use of retail clinics on the supply of services, cost, quality, and access to care?

• To what extent is telemedicine being used today? What new developments are occurring in telemedicine? What role is telemedicine projected to play in the future?

• What are the competitive implications of the increased use of telemedicine on the supply of services, cost, quality, and access to care? Does the increased use of telemedicine raise any patient safety concerns?

• Are there regulatory or commercial barriers that may restrict the use of retail clinics, telemedicine, or other new models of health care delivery? If so, are there any valid justifications to support such restrictions?

• How do professional regulations affect telemedicine or other innovations in delivering health care services or expertise across geographic areas or jurisdictional boundaries, especially in rural or underserved areas?

• What, if any, changes in government regulations would facilitate the emergence of new health care delivery models, enhance competition among health care providers, and encourage additional innovation?

• What are the competitive implications of recent legislative proposals to expand or facilitate telemedicine across state lines?

• How are new health care delivery models reimbursed for providing services?

• Do regulations governing retail clinics, telemedicine, and other new models of health care delivery affect reimbursement? Could these regulations be modified in ways that would improve reimbursement for services provided under new models, better align incentives to implement new models, or otherwise promote innovation?

• Are there other factors that should be considered when analyzing the competitive implications of retail clinics, telemedicine, and other new models of health care delivery?

Advancements in Health Care Technology

Recent advancements in health care technology may have competitive implications. The Commission seeks to better understand developments in electronic health records, health data exchanges, and technology platforms for health care payers and providers, including the current state of competition among hardware and software platforms. In addition, the workshop will examine certain new consumer-oriented health technologies, such as mobile medical applications and personal medical records technologies, that may improve patient engagement and quality of care. The Commission invites public comment on questions relevant to this topic, including:

• What is the current state of competition in health information technology markets serving institutional providers, health care professionals, patients, and payers?

• Do innovators in health information technology face barriers to entry? If so, are these barriers significant impediments to competition? How might these barriers be reduced?

• What new and established technologies have been most important to the development and deployment of telemedicine or "telehealth"?

• What policies could further technical innovation conducive to effective and efficient telemedicine?

• To what extent are information technology vendors and health care providers sharing patient health information? Are there significant impediments to the useful flow of patient health information to improve health care coordination and quality?

• Do recent health care technology advancements raise standard-setting, network effects, or interoperability issues?

• What has been the impact of health information technology advancements and policies on physicians and other caregivers? What has been the impact on patients?

• Does the adoption of particular health care technologies lead to increased switching costs and customer lock-in issues?

• Are there other factors that should be considered when analyzing the competitive implications of emerging health care technologies?

Measuring and Assessing Quality of Health Care

In the workshop, the Commission intends to examine recent developments in the measurement and assessment of health care quality. In particular, the Commission will consider whether, and to what extent, information related to quality of care affects competition and informs health care choices by patients, providers, employers, payers, and other health care decision-makers.

The Commission invites public comment on questions relevant to this topic, including:

• How is health care quality measured and evaluated, and for what purposes? Are these current measures effective?

• Have there been any recent innovations in quality measurement?

• What challenges are encountered when measuring quality? Do these challenges differ depending on whether process or structure measures are used, versus outcome measures?

• To what extent is quality assessment shifting away from process and structure measures, and towards outcome measures?

• How, and to what extent, do quality measures account for higher-risk patient populations, so that providers are neither penalized for treating sicker patients nor rewarded for selectively treating healthier patients? Can risk adjustment be improved?

• How is quality information shared with various health care decision-makers, including patients, providers, employers, and payers? Are there better ways to convey such information?

• Does available quality information empower patients, providers, and other

health care decision-makers to choose more cost-effective and better care?

- Does available quality information facilitate improved care coordination?
- Are there ways to improve quality information so that it is more useful to patients, providers, and other health care decision-makers?
- Is a standard measure likely to emerge that would allow patients, providers, and other health care decision-makers to effectively compare providers based on quality?
- Are there other factors that should be considered when analyzing the competitive implications of quality measurement and assessment?

Price Transparency of Health Care Services

Payers, employer groups, and health care systems are engaged in efforts to make price information (often combined with quality information) more transparent to patients, providers, employers, payers, and other health care decision-makers. Price transparency may be used as a means to control costs while maintaining quality in the provision of health care services. A potential benefit of price transparency is that it may enhance competition among health care providers or between different, potentially substitutable, treatments, thereby leading to reduced prices for health care services and a more efficient allocation of health care resources. Some forms of price transparency may, however, facilitate price coordination among health care providers, thereby dampening competition. The Commission seeks to better understand the competitive implications of price transparency for health care services.

The Commission invites public comment on questions relevant to this topic, including:

- What types of benefit designs (*e.g.*, co-insurance, high-deductible health plans, reference pricing) utilize price transparency as a means to control costs while maintaining quality? What degree of transparency is necessary to achieve each type of benefit design?
- To what extent might price transparency enhance competition among health care providers or between different treatments?
- To what extent might price transparency facilitate price coordination among health care providers and thereby undermine the potential benefits of competition?
- Are there ways to focus the use of price transparency so that it enhances competition without resulting in negative consequences?
- What is the relationship between transparency of price and quality information? Is price information more meaningful to patients, providers, and other health care decision-makers when combined with quality information? Do pricing data alone provide sufficient information to enable meaningful health care decisions?
- Are there other factors that should be considered when analyzing the competitive implications of price transparency in the health care industry?

Request for Comment

You can file a comment online or on paper. To be considered for the workshop, comments in response to this notice must be submitted by March 10, 2014. In addition, any interested person may submit written comments in response to this notice and workshop discussions until April 30, 2014. Write "Health Care Workshop, Project No. P131207" on your comment. Your comment—including your name and state—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

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

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

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

If you file your comment on paper, write "Health Care Workshop, Project No. P131207" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex X), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 30, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–03765 Filed 2–21–14; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–GTAC–2014–01; Docket No. 2014–0002; Sequence 7]

Government-Wide Travel Advisory Committee (GTAC); Public Advisory Committee Meetings

AGENCY: Office of Government-Wide Policy, General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: This Government-wide Travel Advisory Committee (GTAC) (the Committee) is a Federal Advisory Committee established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C., App 2. This notice announces the next two meetings, which are open to the public via teleconference and webinar.

DATES: The upcoming March 26, 2014 and April 30, 2014 meetings will begin at 9:00 a.m. Eastern Standard Time and end no later than 4:00 p.m. Eastern Standard Time. February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Marcerto Barr, Designated Federal Officer (DFO), Government-wide Travel Advisory Committee (GTAC), Office of Government-Wide Policy, General Services Administration, 1800 F Street NW., Washington, DC 20405, 202–208–7654 or by email to: *gtac@gsa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the GTAC is to conduct public meetings, submit reports and to make recommendations to existing travel policies, processes and procedures, including the per diem methodology to assure that official travel is conducted in a responsible manner with the need to minimize costs.

Authority: The GSA Office of Asset and Transportation Management, Travel and Relocation Division, establishes policy that governs travel by Federal civilian employees and others authorized to travel at Government expense on temporary duty travel through the Federal Travel Regulation (FTR).

Agenda: The March meeting will include a follow-up discussion of previous topics, including Data and Meals and Incidental Expenditure Allowances. The April meeting will discuss Managed Lodging, Long-term stay, and reduced per diem.

Meeting Access: The meeting is open to the public via teleconference and webinar. Members of the public wishing to listen in on the GTAC discussion are recommended to visit the GTAC Web site at: *www.gsa.gov/gtac* to obtain registration details. Members of the public will not have the opportunity to ask questions or otherwise participate in the meeting. However, members of the public wishing to comment on the discussion or topics outlined in the agenda should follow the steps detailed in Procedures for Providing Public Comments.

Availability of Materials for the Meeting: Please see the GTAC Web site *www.gsa.gov/gtac* for any available materials and detailed meeting notes after the meeting.

Procedures for Providing Public Comments: In general, public comments will be posted to *www.gsa.gov/gtac.* Non-electronic documents will be made available for public inspection and copying at GSA, 1800 F Street NW., Washington, DC 20405, on official business days between the hours of 10:00 a.m. Eastern Standard Time and 4:00 p.m. Eastern Standard Time. The public can make an appointment to inspect comments by telephoning the DFO at 202–208–7654. All comments, including attachments and other supporting materials received, are part of the public record and subject to public disclosure. Any comments submitted in connection with the GTAC meeting will be made available to the public under the provisions of the Federal Advisory Committee Act.

The public is invited to submit written comments within 7 business days after each meeting by either of the following methods and cite Meeting Notice–GTAC–2014–01.

Electronic or Paper Comments: (1) Submit electronic comments to *gtac@gsa.gov;* or (2) submit paper comments to the attention of Ms. Marcerto Barr at GSA, 1800 F Street NW., Washington, DC 20405.

Dated: February 18, 2014.

Carolyn Austin-Diggs,

Acting Deputy Associate Administrator, Office of Asset and Transportation Management, Office of Government-wide Policy.

[FR Doc. 2014–03778 Filed 2–21–14; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–21431–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 0990–0313, which expired on October 31, 2013. Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before April 25, 2014.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–21431–60D for reference.

Information Collection Request Title: National Blood Collection and Utilization Survey.

Abstract: The National Blood Collection & Utilization Survey (NBCUS) is a biennial survey of the blood collection and utilization community (industry) to produce reliable and accurate estimates of national and regional collections, utilization, safety, and availability of all blood products, some cellular therapeutic products, as well as information on bacterial testing and human tissue transplantation that are of interest to the transfusion medicine community. The 2013 NBCUS shall be funded by the U.S. Department of Health and Human Services (DHHS) and performed by (contactor, to be determined). In previous years, the NBCUS program was performed under the auspices of the National Blood Data Resource Center (NBDRC), a private subsidiary of AABB (formerly known as the American Association of Blood Banks), with private funding.

The survey includes a core of standard questions on blood collection, processing, and utilization practices to allow for comparison with data from previous surveys; additionally, questions to specifically address emerging and developing issues and technologies in blood collection and utilization are included. Biovigilance remains a key theme for the 2013 survey, as continued from the 2007, 2009, and 2011 iterations. To that end, questions on transfusion transmitted infections, transfusion associated circulatory overload, acute hemolysis, delayed hemolysis, and severe allergic reactions are included in the survey.

Need and Proposed Use of the Information: Under the authority of Section 301 of the Public Health Service Act (42 U.S.C.241), as identified in the 1997 HHS Blood Action Plan, and twice in the Advisory Committee on Blood &

Tissue Safety & Availability's (ACBTSA) recommendations to the Secretary, there is a need to provide national policy makers with current supply and demand data.

Likely Respondents: Respondents will include approximately 3,000 institutions that include U.S. blood collection and processing facilities, hospital-based transfusion blood banks, and cord blood banks. Participating institutions will be selected from the American Hospital Association (AHA) annual survey database and AABB member list of blood collection facilities.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
National Blood Collection and Utilization Survey	3,000	1	1	3,000
Total	3,000	1	1	3,000

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2014–03829 Filed 2–21–14; 8:45 am]

BILLING CODE 4150–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS–OS–21435–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: HHS, Office of the Secretary.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before April 25, 2014.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS OS–21435–60D for reference.

Information Collection Request Title: HIPAA Covered Entity and Business Associate Pre-Audit Survey.

Abstract: This information collection consists of a survey of up to 1200 Health Insurance Portability and Accountability Act of 1996 (HIPAA) covered entities (health plans, health care clearinghouses, and certain health care providers) and business associates (entities that provider certain services to a HIPAA covered entity) to determine suitability for the Office for Civil Rights (OCR) HIPAA Audit Program. The survey will gather information about respondents to enable OCR to assess the size, complexity, and fitness of a respondent for an audit. Information collected includes, among other things, recent data about the number of patient visits or insured lives, use of electronic information, revenue, and business locations.

Need and Proposed Use of the Information: The Office for Civil Rights (OCR) is mandated to conduct periodic audits to assess the compliance of covered entities and business associates with the HIPAA Privacy, Security, and Breach Notification Rules. This information collection will enable OCR to assess the suitability of respondent covered entities and business associates for audits.

Likely Respondents: Respondents will include both HIPAA covered entities and business associates.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
OCR Pre-Audit Survey	1200	1	30/60	600
Total	1200	1	30/60	600

OS specifically requests comments on (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) The accuracy of the estimated burden, (3) Ways to enhance the quality, utility, and clarity of the information to be collected, and (4) The use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2014–03830 Filed 2–21–14; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS–OS–20883–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before April 25, 2014.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–20883–60D for reference.

Information Collection Request Title: Support and Services at Home (SASH) Participant Survey.

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting approval from the Office of Management and Budget (OMB) to conduct a survey of Support And Services at Home (SASH) participants to assess the impact of the SASH program on health outcomes. Information collected includes general health status, functional status, quality of life, medication problems and dietary issues. The SASH program operates in Vermont and links staff based in housing properties with a team of community-based health and supportive services providers to help older adults coordinate and manage their care needs. SASH services include: assessment by a multidisciplinary team, creation of an individualized care plan, on-site nursing and care coordination with team members and other local partners, and community activities to support health and wellness. SASH is anchored in affordable senior housing properties, serving residents in the property and seniors living in the surrounding community.

The goal of this project is to conduct a comprehensive evaluation of the SASH program. The evaluation will assess whether the SASH model of coordinated health and supportive services in affordable housing improves quality of life, health and functional status of participants. The evaluation has been designed to comprehensively address the research questions while minimizing the burden placed on the SASH program staff, their partners (e.g., service providers), and Medicare and dually eligible Medicare and Medicaid beneficiaries. The mail survey is designed to collect outcomes that cannot be measured from claims data or other sources. We will use brief, standardized scales with demonstrated reliability and validity in older adults. Information collected in the survey is not of a sensitive nature. Questions in the beneficiary survey are confined to health outcomes. RTI International will conduct and analyze the survey. RTI has experience doing similar work for ASPE and other government clients.

Need and Proposed Use of the Information: To determine the impact of the SASH program on quality of life, health and functional status of participants. Care has been taken to ensure that there is no overlap between other ongoing state evaluations. Through discussions with SASH program staff and other state officials in Vermont, we determined that the information we seek to collect is not already being collected from our proposed sample, nor can it be measured from claims data. As a result of these efforts, the information collected through the survey will not duplicate any other effort and is not obtainable from any other source.

Likely Respondents: The target population for the survey is Medicare beneficiaries participating in the Support and Services at Home (SASH) demonstration. SASH provides integrated, home-based services to beneficiaries in selected housing properties throughout Vermont. At this point, 1,685 intervention beneficiaries have been identified in 37 SASH sites.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SASH Participant Survey	669	1	20/60	223
Total	669	1	20/60	223

OS specifically requests comments on (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) The accuracy of the estimated burden, (3) Ways to enhance the quality, utility, and clarity of the information to be collected, and (4) The use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2014–03828 Filed 2–21–14; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention—State, Tribal, Local and Territorial (STLT) Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned subcommittee:

Time and Date: 4:30 p.m.–6:00 p.m. EST, March 27, 2014.

Place: This meeting will be held by teleconference.

Status: This meeting is open to the public, limited only by the availability of telephone ports (100). The public is welcome to participate during the public comment period, which is tentatively scheduled from 5:40 to 5:45 p.m. To participate on the teleconference, please dial (888) 233–0592 and enter code 33288611.

Purpose: The Subcommittee will provide advice to the CDC Director through the ACD on strategies and future needs and challenges faced by State, Tribal, Local and Territorial health agencies, and will provide guidance on opportunities for CDC.

Matters To Be Discussed: The STLT Subcommittee members will discuss progress on implementation of ACD-adopted recommendations related to the health department of the future, additional developments that may expand these recommendations, and how CDC can best support STLT health departments.

The agenda is subject to change as priorities dictate.

Contact Person for More Information: Judith A. Monroe, M.D., FAAFP, Designated Federal Officer, State, Tribal, Local and Territorial Subcommittee, Advisory Committee to the Director, CDC, 1600 Clifton Road NE., M/S E–70, Atlanta, Georgia 30333, Telephone (404) 498–6775, Email: *OSTLTSDirector@cdc.gov.* Please submit comments to *OSTLTSDirector@cdc.gov* by March 20, 2014.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–03813 Filed 2–21–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–116]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *March 26, 2014.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs Attention: CMS Desk Officer, Fax Number: (202) 395–5806
OR Email:
OIRA_submission@omb.eop.gov.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide

information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Application Form and Supporting Regulations; *Use:* The application must be completed by entities performing laboratory's testing specimens for diagnostic or treatment purposes. This information is vital to the certification process. *Form Number:* CMS–116 (OCN: 0938–0581); *Frequency:* Biennially and Occasionally; *Affected Public:* Private sector- Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 242,000; *Total Annual Responses:* 34,200; *Total Annual Hours:* 25,650. (For policy questions regarding this collection contact Sheila Ward at 410–786–3115.)

Dated: February 19, 2014.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–03877 Filed 2–21–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10328]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by *April 25, 2014.*

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10328 Medicare Self-Referral Disclosure Protocol

Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* The Self-Referral Disclosure Protocol (SRDP) is a voluntary self-disclosure instrument that allows providers of services and suppliers to disclose actual or potential violations of section 1877 of the Social Security Act (the Act). CMS analyzes the disclosed conduct to determine compliance with section 1877 of the Act and the application of the exceptions to the physician self-referral prohibition. In addition, the authority granted to the Secretary under section 6409(b) of the ACA, and subsequently delegated to CMS, may be used to reduce the amount due and owing for violations. *Form Number:* CMS–10328 (OCN: 0938–1106); *Frequency:* Once; *Affected Public:* Private sector—Business and other for-profit and Not-for-profit institutions; *Number of Respondents:* 100; *Total Annual Responses:* 100; *Total Annual Hours:* 5,000. (For policy questions regarding this collection contact Matthew Edgar at (410)–786–0698. For all other issues call 410–786–1326.)

Dated: February 19, 2014.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–03874 Filed 2–21–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3287–PN2]

Medicare and Medicaid Programs; Application From The Compliance Team for Initial CMS-Approval of Its Rural Health Clinic Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice acknowledges the receipt of an application from The Compliance Team for initial recognition as a national accrediting organization for rural health clinics (RHCs) that wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on March 26, 2014.

ADDRESSES: In commenting, please refer to file code CMS–3287–PN2. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways:

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.regulations.gov.* Follow the "submit a comment" instructions.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3287–PN2, P.O. Box 8016, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3287–PN2, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments to the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: James Cowher, (410) 786–1948; Valarie Lazerowich, (410) 786–4750; Cindy Melanson, (410) 786–0310; or Patricia Chmielewski, (410) 786–6899.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this proposed notice to assist us in fully considering issues and developing policies. Referencing the file code CMS–3287–PN2 and the specific "issue identifier" that precedes the section on which you choose to comment will assist us in fully considering issues and developing policies.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov* . Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a Rural Health Clinic (RHC) provided certain requirements are met. Section 1861(aa), and 1905(l)(1) of the Social Security Act (the Act), establishes distinct criteria for facilities seeking designation as an RHC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488, subpart A. The regulations at 42 CFR part 491, subpart A specify the minimum conditions that an RHC must meet to participate in the Medicare program. The conditions for Medicare payment for RHCs are set forth at 42 CFR 405, subpart X.

Generally, to enter into an agreement, a RHC must first be certified by a state survey agency as complying with the conditions or requirements set forth in part 491 of our regulations. Thereafter, the RHC is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by state agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the accrediting organization requires the

accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions.

II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.8(a) require that our findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of The Compliance Team's request for initial CMS approval of its RHC accreditation program. This notice also solicits public comment on whether The Compliance Team's requirements meet or exceed the Medicare conditions for certification for RHC. We originally published a notice on September 20, 2013 (78 FR 57857). The application described in the notice was withdrawn at the request of the applicant. This document notifies the public that The Compliance Team resubmitted its RHC application for review.

III. Evaluation of Deeming Authority Request

The Compliance Team submitted all the necessary materials to enable us to make a determination concerning its request for initial approval of its RHC accreditation program. This application was determined to be complete on January 2, 2014. Under section 1865(a)(2) of the Act and our regulations at § 488.8 (federal review of accrediting organizations), our review and evaluation of The Compliance Team will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of The Compliance Team's standards for RHCs as compared with CMS' RHC conditions for certification.
- The Compliance Team's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of The Compliance Team's processes to those of state survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ The Compliance Team's processes and procedures for monitoring a RHC found out of compliance with The Compliance Team's program requirements. These monitoring procedures are used only when The Compliance Team identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the state survey agency monitors corrections as specified at § 488.7(d).

++ The Compliance Team's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ The Compliance Team's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of The Compliance Team's staff and other resources, and its financial viability.

++ The Compliance Team's capacity to adequately fund required surveys.

++ The Compliance Team's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ The Compliance Team's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 18, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–03905 Filed 2–21–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1603–N]

Medicare Program; Public Meetings in Calendar Year 2014 for All New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS) Coding and Payment Determinations

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

ACTION: Notice.

SUMMARY: This notice announces the dates, time, and location of the Healthcare Common Procedure Coding System (HCPCS) public meetings to be held in calendar year 2014 to discuss our preliminary coding and payment determinations for all new public requests for revisions to the HCPCS. These meetings provide a forum for interested parties to make oral presentations or to submit written comments in response to preliminary coding and payment determinations. The discussion will be focused on responses to our specific preliminary recommendations and will include all items on the public meeting agenda.

DATES: *Meeting Dates:* The following are the 2014 HCPCS public meeting dates:

1. Tuesday, May 20, 2014, 9 a.m. to 5 p.m. eastern daylight time (e.d.t.) (Drugs/Biologicals/ Radiopharmaceuticals/Radiologic Imaging Agents).

2. Wednesday, May 21, 2014, 9 a.m. to 5 p.m. e.d.t. (Drugs/Biologicals/

Radiopharmaceuticals/Radiologic Imaging Agents).

3. Wednesday, May 28, 2014, 9 a.m. to 5 p.m. e.d.t. (Supplies and Other).

4. Tuesday, June 3, 2014, 9 a.m. to 5 p.m. e.d.t. Durable Medical Equipment (DME) and Accessories; and Orthotics and Prosthetics (O&P).

Deadlines for Primary Speaker Registration and Presentation Materials: The deadline for registering to be a primary speaker and submitting materials and writings that will be used in support of an oral presentation are as follows:

- May 6, 2014 for the May 20, 2014 and May 21, 2014 public meetings.
- May 14, 2014 for the May 28, 2014 public meeting.
- May 21, 2014 for the June 3, 2014 public meeting.

Registration Deadline for Attendees that are Foreign Nationals: Attendees that are foreign nationals (as described in section IV. of this notice) are required to identify themselves as such, and provide the necessary information for security clearance (as described in section IV. of this notice) to the public meeting coordinator at least 12 business days in advance of the date of the public meeting the individual plans to attend. Therefore, the deadlines for attendees that are foreign nationals are as follows:

- May 5, 2014 for the May 20, 2014 and May 21, 2014 public meetings.
- May 9, 2014 for the May 28, 2014 public meeting.
- May 15, 2014 for the June 3, 2014 public meeting.

Registration Deadlines for all Other Attendees: All individuals who are not foreign nationals who plan to enter the building to attend the public meeting must register for each date that they plan on attending. The registration deadlines are different for each meeting. Registration deadlines are as follows:

- May 14, 2014 for the May 20, 2014 and May 21, 2014 public meeting dates.
- May 21, 2014 for the May 28, 2014 public meeting date.
- May 27, 2013 for the June 3, 2014 public meeting date.

Deadlines for Requesting Special Accommodations: Individuals who plan to attend the public meetings and require sign-language interpretation or other special assistance must request these services by the following deadlines:

- May 13, 2014 for the May 20, 2014 and May 21, 2014 public meetings.
- May 21, 2014 for the May 28, 2014 public meeting.
- May 27, 2014 for the June 3, 2014 public meeting.

Deadline for Submission of Written Comments: Written comments must be received by the date of the meeting at which the code request is scheduled for discussion.

ADDRESSES: *Meeting Location:* The public meetings will be held in the main auditorium of the central building of the Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Submission of Written Comments: Written comments may either be emailed to *HCPCS@cms.hhs.gov* or sent via regular mail to Jennifer Carver or Kimberlee Combs Miller, HCPCS Public Meeting Coordinator, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C5–08–27, Baltimore, MD 21244–1850.

Registration and Special Accommodations: Individuals wishing to participate or who need special accommodations or both must register by completing the on-line registration located at *www.cms.hhs.gov/medhcpcsgeninfo* or by contacting one of the following persons: Jennifer Carver at (410) 786–6610 or *Jennifer.Carver@cms.hhs.gov;* or Kimberlee Combs Miller at (410) 786–6707 or *Kimberlee.CombsMiller@cms.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Carver at (410) 786–6610 or *Jennifer.Carver@cms.hhs.gov.* Kimberlee Combs Miller at (410) 786–6707 or *Kimberlee.CombsMiller@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Congress passed the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554). Section 531(b) of BIPA mandated that we establish procedures that permit public consultation for coding and payment determinations for new durable medical equipment (DME) under Medicare Part B of title XVIII of the Social Security Act (the Act). The procedures and public meetings announced in this notice for new DME are in response to the mandate of section 531(b) of BIPA.

In the November 23, 2001 **Federal Register** (66 FR 58743), we published a notice providing information regarding the establishment of the public meeting process for DME. It is our intent to distribute any materials submitted to CMS to the Healthcare Common Procedure Coding System (HCPCS) workgroup members for their consideration. CMS and the HCPCS workgroup members require sufficient preparation time to review all relevant materials. Therefore, we are implementing a 10-page submission limit and firm deadlines for receipt of any presentation materials a meeting speaker wishes us to consider. For this reason, our HCPCS Public Meeting Coordinators will only accept and review presentation materials received by the deadline for each public meeting, as specified in the "DATES" section of this notice.

The public meeting process provides an opportunity for the public to become aware of coding changes under consideration, as well as an opportunity for CMS to gather public input.

II. Meeting Registration

A. Required Information for Registration

The following information must be provided when registering:

- Name.
- Company name and address.
- Direct-dial telephone and fax numbers.
- Email address.
- Special needs information.

A CMS staff member will confirm your registration by email.

B. Registration Process

1. Primary Speakers

Individuals must also indicate whether they are the "primary speaker" for an agenda item. Primary speakers must be designated by the entity that submitted the HCPCS coding request. When registering, primary speakers must provide a brief written statement regarding the nature of the information they intend to provide, and advise the HCPCS Public Meeting Coordinator regarding needs for audio/visual support. To avoid disruption of the meeting and ensure compatibility with our systems, tapes and disk files are tested and arranged in speaker sequence well in advance of the meeting. We will accept tapes and disk files that are received by the deadline for submissions for each public meeting as specified in the **DATES** section of this notice. The sum of all materials including the presentation may not exceed 10 pages (each side of a page counts as 1 page). An exception will be made to the 10-page limit for relevant studies published between the application deadline and the public meeting date, in which case, we would like a copy of the complete publication as soon as possible. This exception applies only to the page limit and not the submission deadline.

The materials may be emailed or delivered by regular mail to one of the HCPCS Public Meeting Coordinators as specified in the **ADDRESSES** section of this notice. The materials must be emailed or postmarked no later than the deadline specified in the **DATES** section

of this notice. Individuals will need to provide 35 copies if materials are delivered by mail.

2. 5-Minute Speakers

To afford the same opportunity to all attendees, 5-minute speakers are not required to register as primary speakers. However, 5-minute speakers must still register as attendees by the deadline set forth under "Registration Deadlines for all Other Attendees" in the **DATES** section of this notice. Attendees can sign up only on the day of the meeting to do a 5-minute presentation. Individuals must provide their name, company name and address, contact information as specified on the sign-up sheet, and identify the specific agenda item that they will address.

C. Additional Meeting/Registration Information

We were able this year to combine the Orthotics/Prosthetics and DME meeting into one public meeting date. That public meeting will be Tuesday, June 3, 2014.

The product category reported in the HCPCS code application by the applicant may not be the same as that assigned by us. Prior to registering to attend a public meeting, all participants are advised to review the public meeting agendas at *www.cms.hhs.gov/medhcpcsgeninfo* which identify our category determinations, and the dates each item will be discussed. Draft agendas, including a summary of each request and our preliminary decision will be posted on our HCPCS Web site at *www.cms.hhs.gov/medhcpcsgeninfo* at least 4 weeks before each meeting.

Additional details regarding the public meeting process for all new public requests for revisions to the HCPCS, along with information on how to register and guidelines for an effective presentation, will be posted at least 4 weeks before the first meeting date on the official HCPCS Web site at *www.cms.hhs.gov/medhcpcsgeninfo.* The document titled "Guidelines for Participation in Public Meetings for All New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS)" will be made available on the HCPCS Web site at least 4 weeks before the first public meeting in 2014 for all new public requests for revisions to the HCPCS. Individuals who intend to provide a presentation at a public meeting need to familiarize themselves with the HCPCS Web site and the valuable information it provides to prospective registrants. The HCPCS Web site also contains a document titled "Healthcare Common Procedure Coding System (HCPCS) Level II Coding Procedures," which is a description of the HCPCS coding process, including a detailed explanation of the procedures used to make coding determinations for all the products, supplies, and services that are coded in the HCPCS.

The HCPCS Web site also contains a document titled "HCPCS Decision Tree & Definitions" which illustrates, in flow diagram format, HCPCS coding standards as described in our Coding Procedures document.

A summary of each public meeting will be posted on the HCPCS Web site by the end of August 2014.

III. Presentations and Comment Format

We can only estimate the amount of meeting time that will be needed since it is difficult to anticipate the total number of speakers that will register for each meeting. Meeting participants should arrive early to allow time to clear security and sign-in. Each meeting is expected to begin promptly as scheduled. Meetings may end earlier than the stated ending time.

A. Oral Presentation Procedures

All primary speakers must register as provided under the section titled "Meeting Registration." Materials and writings that will be used in support of an oral presentation should be submitted to one of the HCPCS Public Meeting Coordinators.

The materials may be emailed or delivered by regular mail to one of the HCPCS Public Meeting Coordinators as specified in the **ADDRESSES** section of this notice. The materials must be emailed or postmarked no later than the deadline specified in the **DATES** section of this notice. Individuals will need to include 35 copies if materials are delivered by mail.

B. Primary Speaker Presentations

The individual or entity requesting revisions to the HCPCS coding system for a particular agenda item may designate one "primary speaker" to make a presentation for a maximum of 15 minutes. Fifteen minutes is the total time interval for the presentation, and the presentation must incorporate the demonstration, set-up, and distribution of material. In establishing the public meeting agenda, we may group multiple, related requests under the same agenda item. In that case, we will decide whether additional time will be allotted, and may opt to increase the amount of time allotted to the speaker by increments of less than 15 minutes.

Individuals designated to be the primary speaker must register to attend the meeting using the registration procedures described under the "Meeting Registration" section of this notice and contact one of the HCPCS Public Meeting Coordinators, specified in the **ADDRESSES** section. Primary speakers must also separately register as primary speakers by the date specified in the **DATES** section of this notice.

C. "5-Minute" Speaker Presentations

Meeting attendees can sign up at the meeting, on a first-come, first-served basis, to make 5-minute presentations on individual agenda items. Based on the number of items on the agenda and the progress of the meeting, a determination will be made at the meeting by the meeting coordinator and the meeting moderator regarding how many 5-minute speakers can be accommodated and/or whether the 5-minute time allocation would be reduced, to accommodate the number of speakers.

D. Speaker Declaration

On the day of the meeting, before the end of the meeting, all primary speakers and 5-minute speakers must provide a brief written summary of their comments and conclusions to the HCPCS Public Meeting Coordinator.

Every primary speaker and 5-minute speaker must declare at the beginning of their presentation at the meeting, as well as in their written summary, whether they have any financial involvement with the manufacturers or competitors of any items being discussed; this includes any payment, salary, remuneration, or benefit provided to that speaker by the manufacturer or the manufacturer's representatives.

E. Written Comments From Meeting Attendees

Written comments will be accepted from the general public and meeting registrants anytime up to the date of the public meeting at which a request is discussed. Comments must be sent to the address listed in the **ADDRESSES** section of this notice.

Meeting attendees may also submit their written comments at the meeting. Due to the close timing of the public meetings, subsequent workgroup reconsiderations, and final decisions, we are able to consider only those comments received in writing by the close of the public meeting at which the request is discussed.

IV. Security, Building, and Parking Guidelines

The meetings are held within the CMS Complex which is not open to the general public. Visitors to the complex are required to show a valid

Government issued photo identification, preferably a driver's license, at the time of entry. Participants will also be subject to a vehicle security inspection before access to the complex is granted. Participants not in possession of a valid identification or who are in possession of prohibited items will be denied access to the complex. Prohibited items on Federal property include but are not limited to, alcoholic beverages, illegal narcotics, explosives, firearms or other dangerous weapons (including pocket knives), dogs or other animals except service animals. Once cleared for entry to the complex participants will be directed to visitor parking by a security officer.

In order to ensure expedited entry into the building it is recommended that participants have their ID and a copy of their written meeting registration confirmation readily available and that they do not bring large/bulky items into the building. Participants are reminded that photography on the CMS complex is prohibited. CMS has also been declared a tobacco free campus and violators are subject to legal action. In planning arrival time, we recommend allowing additional time to clear security. Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes before the convening of the meeting each day.

Guest access to the complex is limited to the meeting area, the main lobby, and the cafeteria. If a visitor is found outside of those areas without proper escort they may be escorted off of the premises. Also be mindful that there will be an opportunity for everyone to speak and we request that everyone waits for the appropriate time to present their product or opinions. Disruptive behavior will not be tolerated and may result in removal from the meetings and escort from the complex. No visitor is allowed to attach USB cables, thumb drives or any other equipment to any CMS information technology (IT) system or hardware for any purpose at anytime. Additionally, CMS staff is prohibited from taking such actions on behalf of a visitor or utilizing any removable media provided by a visitor.

We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a presentation. Special arrangements and approvals are required at least 2 weeks prior to each public meeting in order to bring pieces of equipment or medical devices. These arrangements need to be made with the public meeting coordinator. It is possible that certain requests made in advance of the public meeting could be denied because of unique safety, security or handling issues related to the equipment. A minimum of 2 weeks is required for approvals and security procedures. Any request not submitted at least 2 weeks in advance of the public meeting will be denied.

CMS policy requires that every foreign national (as defined by the Department of Homeland Security, a foreign national is "an individual who is a citizen of any country other than the United States") is assigned a host (in accordance with the Department Foreign Visitor Management Policy, Appendix C, Guidelines for Hosts and Escorts). The host/hosting official is required to inform the Division of Critical Infrastructure Protection (DCIP) at least 12 business days in advance of any visit by a foreign national. Foreign nationals will be required to produce a valid passport at the time of entry.

Attendees that are foreign nationals must identify themselves as such, and provide the following information for security clearance to the public meeting coordinator by the date specified in the **DATES** section of this notice:

- Visitor's full name (as it appears on passport).
- Gender.
- Country of origin and citizenship.
- Biographical data and related information.
- Date of birth.
- Place of birth.
- Passport number.
- Passport issue date.
- Passport expiration date.
- Visa Type.
- Visa Number.
- Dates of visits.
- Company Name.
- Position/Title.

Dated: February 10, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–03902 Filed 2–21–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–7032–N]

Health Insurance Marketplace, Medicare, Medicaid, and Children's Health Insurance Programs; Meeting of the Advisory Panel on Outreach and Education (APOE), March 17, 2014

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

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education strategies concerning Health Insurance Marketplace, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

DATES: *Meeting Date:* Monday, March 17, 2014, 8:30 a.m. to 4:00 p.m. eastern daylight time (e.d.t.).

Deadline for Meeting Registration, Presentations and Comments: Monday, March 3, 2014, 5:00 p.m., e.d.t.

Deadline for Requesting Special Accommodations: Monday, March 3, 2014, 5:00 p.m., e.d.t.

ADDRESSES:

Meeting Location: Department of Health & Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 705A, Washington, DC 20201.

Presentations and Written Comments: Kirsten Knutson, Acting Designated Federal Official (DFO), Division of Forum and Conference Development, Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1–13–05, Baltimore, MD 21244–1850 or contact Ms. Knutson via email at *Kirsten.Knutson@cms.hhs.gov.*

Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register at the Web site *http://events.SignUp4.com/APOEMAR2014MTG* or by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at number listed in the **FOR FURTHER INFORMATION CONTACT** section of

this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. In accordance with the Department of Health & Human Services standards, and an effort for the public to engage virtually in the open meetings, this APOE meeting will be available to view via live web streaming by visiting the link *www.cms.gov/live* during the designated time of the meeting.

FOR FURTHER INFORMATION CONTACT: Kirsten Knutson, (410) 786–5886. Additional information about the APOE is available on the Internet at: *http://www.cms.gov/Regulations-and Guidance/Guidance/FACA/APOE.html.* Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act (FACA), this notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel). Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is "in the public interest in connection with the performance of duties imposed . . . by law." Such duties are imposed by section 1804 of the Social Security Act (the Act), requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for "activities . . . to broadly disseminate information to [M]edicare beneficiaries . . . on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options."

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on December 18, 2012 (78 FR 105, May, 31, 2013).

Pursuant to the amended charter, the Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, Health Insurance Marketplace, Medicare, Medicaid and the Children's Health Insurance Program (CHIP).
- Enhancing the federal government's effectiveness in informing Health Insurance Marketplace, Medicare, Medicaid and CHIP consumers, providers and stakeholders pursuant to education and outreach programs of issues regarding these and other health coverage programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Health Insurance Marketplace, Medicare, Medicaid and CHIP education programs.
- Assembling and sharing an information base of "best practices" for helping consumers evaluate health plan options.
- Building and leveraging existing community infrastructures for information, counseling and assistance.
- Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under health care reform.

The current members of the Panel are: Joseph Baker, President, Medicare Rights Center; Philip Bergquist, Manager, Health Center Operations, CHIPRA Outreach & Enrollment Project and Director, Michigan Primary Care Association; Marjorie Cadogan, Executive Deputy Commissioner, Department of Social Services; Jonathan Dauphine, Senior Vice President, AARP; Barbara Ferrer, Executive Director, Boston Public Health Commission; Shelby Gonzales, Senior Health Outreach Associate, Center on Budget & Policy Priorities; Jan Henning, Benefits Counseling & Special Projects Coordinator, North Central Texas Council of Governments' Area Agency on Aging; Sandy Markwood, Chief Executive Officer, National Association of Area Agencies on Aging; Miriam Mobley-Smith, Dean, Chicago State University, College of Pharmacy; Ana Natale-Pereira, Associate Professor of Medicine, University of Medicine & Dentistry of New Jersey; Megan Padden, Vice President, Sentara Health Plans; Winston Wong, Medical Director, Community Benefit Director, Kaiser Permanente.

The agenda for the March 17, 2014 meeting will include the following:

- Welcome and Listening Session with CMS Leadership
- Recap of the Previous (September 16, 2013) Meeting
- Affordable Care Act Initiatives
- An Opportunity for Public Comment
- Meeting Summary, Review of Recommendations and Next Steps

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Authority: Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 12, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–03909 Filed 2–21–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1675]

Draft Guidance for Industry on New Chemical Entity Exclusivity Determinations for Certain Fixed-Combination Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "New Chemical Entity Exclusivity Determinations for Certain Fixed-Combination Drug Products." This draft guidance sets forth a change in the Agency's interpretation of the 5-year new chemical entity (NCE)

exclusivity statutory and regulatory provisions as they apply to certain fixed-combination drug products (fixed combinations). If the guidance is finalized, a drug product will be eligible for 5-year NCE exclusivity if it contains a drug substance that meets the definition of "new chemical entity," regardless of whether that drug substance is approved alone or in certain fixed-combinations.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 25, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nisha Shah, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6222, Silver Spring, MD 20993–0002, 301–796–4455; or Jay Sitlani, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6272, Silver Spring, MD 20993–0002, 301–796–5202.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "New Chemical Entity Exclusivity Determinations for Certain Fixed-Combination Drug Products." This guidance sets forth a change in the Agency's interpretation of the 5-year NCE exclusivity provisions as they apply to certain fixed-combinations. Sections 505(c)(3)(E)(ii) and (j)(5)(F)(ii) of the Food, Drug, and Cosmetic Act and 21 CFR 314.108, among other provisions, establish the scheme under which a drug product is eligible for 5-year NCE exclusivity. The Agency currently interprets the term "drug" as it appears in the first subclause of the statutory provisions and in the definition of "new chemical entity" in its regulation to mean "drug product." This results in a fixed-combination not being eligible for 5-year NCE exclusivity if it contains any drug substance that contains an active moiety that had been previously approved by the Agency, even if the fixed-combination also contains another drug substance that contains a previously unapproved active moiety.

The Agency recognizes, however, that fixed-combinations have become increasingly prevalent in certain therapeutic areas and that these products play an important role in optimizing adherence to dosing regimens and improving patient outcomes. Therefore, to further incentivize the development of fixed-combinations containing previously unapproved active moieties, the Agency is revising its existing interpretation regarding the eligibility for 5-year NCE exclusivity of certain fixed-combinations. Under the revised interpretation, the term "drug" in the relevant provisions would be interpreted to mean "drug substance" or "active ingredient," and not "drug product." Accordingly, a drug product would be eligible for 5-year NCE exclusivity provided that it contains any drug substance that contains no active moiety that has been previously approved. This will permit a drug substance that meets the definition of new chemical entity (i.e., it contains no previously approved active moiety) to be eligible for 5-year NCE exclusivity, even when it is approved in a fixed-combination with another drug substance that contains a previously approved active moiety.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on 5-year NCE exclusivity for certain fixed-combinations. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

III. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm or http://www.regulations.gov*.

Dated: February 19, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03885 Filed 2–21–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0202]

Over-The-Counter Drug Monograph System—Past, Present, and Future; Public Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing a public hearing to obtain input on the Over-The-Counter (OTC) Drug Review (sometimes referred to as the OTC Monograph Process, OTC Monograph, or OTC Drug Review). The Agency would like input on how to improve or alter the current OTC Monograph Process for reviewing nonprescription drugs (sometimes referred to as OTC drugs) marketed under the OTC Drug Review. This public hearing is being held to obtain information and comments from the public on the strengths and weaknesses of the current OTC Monograph Process, and to obtain and discuss ideas about modifications or alternatives to this process.

DATES: *Public Hearing:* The public hearing will be held on March 25 and 26, 2014, from 9 a.m. to 4 p.m. The meeting may be extended or may end early depending on the level of public participation. Register to attend or provide oral testimony at the meeting by March 12, 2014. See *Registration and Request To Provide Oral Testimony* for information on how to register or make an oral presentation at the meeting. Written or electronic comments will be accepted until May 12, 2014.

ADDRESSES: The public hearing will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, rm. 1503A, Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Mary Gross, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20903–0002, 301–796–3519, FAX: 301–847–8753, *mary.gross@fda.hhs.gov*; or Georgiann Ienzi, Center for Drug Evaluation and Research, 10903 New Hampshire Ave., Silver Spring, MD 20903–0002, 301–796–3515, FAX: 301–595–7910, *georgiann.ienzi@fda.hhs.gov.*

Registration and Request To Provide Oral Testimony: The public hearing is free and seating will be on a first-come, first-served basis. If you wish to attend the public hearing or make an oral presentation, see section IV of this notice (Attendance and/or Participation in the Public Hearing) for information on how to register and the deadline for registration. For those who cannot attend in person, information about how to access a live Webcast of the meeting will be located at: *http://www.fda.gov/Drugs/NewsEvents/ucm380446.htm.*

Comments and Transcripts: Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. You should annotate and organize your comments to identify the specific questions identified by the topic to which they refer. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Transcripts of the hearing will be available for review at the Division of Dockets Management and at *http://www.regulations.gov* approximately 45 days after the hearing. A transcript also will be available in either hard copy or on CD–ROM after submission of a Freedom of Information request. Send requests to the Division of Freedom of Information (ELEM–1029), Office of Management Programs, Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: FDA is announcing a public hearing to obtain input on the OTC Drug Review. We believe that the OTC Drug Review needs a critical examination at this juncture to examine whether and how to modernize its processes and regulatory framework. The Agency is interested in exploring ways to re-engineer the process of regulating OTC drugs that are currently regulated under the OTC Monograph Process to, among other things, create a process that is more efficient and more responsive to newly emerging information and evolving science, and to allow for more rapid product innovation where appropriate.

I. Background

FDA has been assessing the OTC Monograph Process and, in particular, has been considering how effectively the monograph system is functioning in today's world, 40 years after its inception, from the scientific, policy, and process perspectives. We are now soliciting opinions about whether and how to modernize the process for the future.

A. The Past: OTC Drug Review Implementation and Accomplishments

1. OTC Drug Review Regulatory Framework

FDA's regulations in 21 CFR part 330 describe the conditions for a drug to be considered generally recognized as safe and generally recognized as effective (GRAS/GRAE) and not misbranded. If a drug meets each of the conditions contained in part 330, as well as each of the conditions contained in any applicable OTC drug monograph, and other applicable regulations, it is considered GRAS/GRAE and not misbranded, and is not required by FDA to obtain approval of a new drug application (NDA) under section 505 of the FD&C Act (21 U.S.C. 355).

The lengthy notice and comment rulemaking procedures for evaluating each therapeutic category are set forth at § 330.10. These regulations require a three part regulatory rulemaking process including the publication of an Advanced Notice of Proposed Rulemaking, a Tentative Final Monograph (TFM) or Proposed Rule, and a Final Monograph or Final Rule to establish the conditions under which drugs under the OTC Drug Review are considered GRAS/GRAE and are not misbranded. FDA does not require OTC products conforming to the conditions of a final monograph and other applicable regulations to have approved NDAs prior to marketing. As a corollary, it has also generally been FDA's enforcement approach since the early days of the OTC Drug Review to not pursue regulatory action against OTC products marketed in conformance with the conditions proposed in a TFM. (See Compliance Policy Guide Section 450.200 Drugs—General Provisions and Administrative Procedures for Recognition as Safe and Effective at: *http://www.fda.gov/iceci/compliancemanuals/compliancepolicyguidancemanual/ucm074388.htm).*

2. Accomplishments of FDA's OTC Drug Review

The OTC Drug Review has been successful in a variety of ways. Under the OTC Drug Review, FDA was able to evaluate the safety and efficacy of thousands of OTC drug products by therapeutic category, instead of reviewing NDAs for each drug product. FDA has issued final monographs for the majority of the original drug categories (see 21 CFR parts 331 to 361) and over 150 TFMs. The final rules cover large segments of the OTC marketplace. Examples include fluoride toothpastes, acne products, and topical antifungals. As a result of the OTC Drug Review, thousands of OTC drugs that FDA determined are GRAS/GRAE and not misbranded are regulated under final monographs and continue to be available to consumers, and numerous other OTC drugs that were considered unsafe, ineffective, or both, have been removed from the market.

B. The Present: Challenges and Changed Landscapes

Our examination, however, has revealed significant challenges associated with the OTC Drug Review as it functions today. When we look at how rapidly science now evolves and the impact this has had on the emergence of drug safety issues and on drug development, it is clear to us that

questions need to be asked about whether this impact necessitates a more agile and responsive process than the OTC Drug Review allows. When the OTC Monograph Process was initially established and implemented in the early 1970s, the multistep rulemaking strategy was thought to be an effective and efficient approach to reviewing large categories of active ingredients in drug products at the same time given what was the current thinking about the known science related to these ingredients. Indeed, the questions we are raising in this notice about the OTC Drug Review become all the more important to the public health when we compare the statutory changes that have been made to update the regulation of prescription NDA drugs to address the scientific advances in evaluating drug safety. These changes give FDA the ability to quickly obtain new information and take administrative action as needed efficiently and effectively.

We have identified what we believe are the biggest challenges to efficiently and effectively regulating under the OTC Drug Review. We are also interested in feedback that identifies any other scientific or regulatory challenges associated with the OTC Drug Review that are not described here.

We believe that the biggest challenges of the current system are:

- The large number of products marketed under the OTC Drug Review for which there are not yet final monographs,
- limitations on FDA's ability to require, for example, new warnings or other labeling changes to address emerging safety or effectiveness issues for products marketed under the OTC Drug Review in a timely and effective manner, and
- the inability of the OTC Drug Review to easily accommodate innovative changes to products regulated under the OTC Drug Review.

1. Monographs That Have Not Been Finalized

The OTC Drug Review is one of the largest and most complex regulatory undertakings ever at FDA. It now consists of approximately 88 simultaneous rulemakings in 26 broad categories that encompass hundreds of thousands of OTC drug products marketed in the United States and some 800 active ingredients for over 1,400 different ingredient uses. However, several significant segments of the OTC marketplace are still not covered by final monographs, and these products may lack sufficient data for FDA to determine whether they are safe, effective, or both. Under the enforcement approach we have been using since the early days of the OTC Drug Review, most of these products have remained on the market pending finalization of their monograph. Over the years, it has become clear that one unintended consequence of this enforcement approach is that it creates negative incentives for those who manufacture or market these OTC drugs to conduct studies or otherwise respond to safety concerns as to do so may hasten a determination that their product is not GRAS/GRAE.

2. Emerging Safety Concerns, Evolving Science, and Product Formulation

The OTC Monograph Process also presents challenges to FDA's ability to respond to emerging safety issues, keep pace with evolving science, and ensure the consistent safety and effectiveness of varying formulations.

a. *New safety concerns can arise before or after a monograph is finalized.* The OTC Drug Monograph Process is not agile enough to quickly change a monograph to address new safety concerns that may be identified during the rulemaking process or after a monograph is finalized (e.g., the addition of a warning into the monograph regulation, narrowing of an indication in the monograph regulation, or removal of an active ingredient from the monograph). Although the Agency may be able to take some actions to deal with safety issues that emerge, in order to change the monograph under the current process FDA engages in a lengthy rulemaking process. This process for changing a monograph is not well-adapted to address new safety issues with the speed and agility that are necessary to serve the public health.

b. *Keeping Pace with Evolving Science.* As we have already described, the OTC Drug Review is not able to easily keep pace with evolving science. When the OTC Drug Review was established, it was generally thought that safety and effectiveness evaluations for the various active ingredients would be fairly straightforward and would not necessarily need continuous reexamination over time. Forty years later we know that information and data regarding medicine and science are changing at increasingly rapid rates. For example, scientific advancements have changed what is known about how drugs act in the body and in turn, how drugs are evaluated by FDA. These changes cannot be reflected under the OTC Drug Review in an efficient or timely manner. For example, many drug products regulated under the OTC Drug Review are indicated for use by children and are labeled with dosing instructions for this population. For most OTC monograph products, the information and data available at the time the initial advisory review panels established by FDA evaluated the various active ingredients, in the 1970s, lacked specific data on use in children and infants. FDA did what was scientifically customary at the time, and extrapolated known data to use in children by simply reducing adult doses by a percentage. For most monographs that include specific labeling for use in the pediatric population, the pediatric dosing instructions were developed in this manner. The science of pharmacokinetics has advanced over the years and, as a result, the preferred approach to pediatric dosing has changed. Ideally, data from actual use in the pediatric population would be needed for an indication for use in children.

In addition, with some categories of OTC drugs, changes in patterns of use take place which, in turn, impact consumer exposure to the drugs. Exposure patterns are a key component of any safety and effectiveness assessment. The current process of changing a monograph does not contain an efficient mechanism to assess or address these kinds of changes to exposure patterns.

c. *Product Formulation.* Under the OTC Drug Review, the monographs set forth the conditions under which a specific active ingredient used in a drug product is GRAS/GRAE and not misbranded. The monographs, however, generally do not dictate what other non-active ingredients can be added, or other aspects of the formulation (other than the general requirement that they be safe and suitable and not interfere with the effectiveness of the preparation, see § 330.1(e)). Thus, under the OTC Drug Review, products in their final formulation are not specifically evaluated by the Agency to ensure product safety, effectiveness, and consistency. Although FDA regulations require that inactive ingredients not interfere with the safety or efficacy of the drug product, for drug products marketed under the OTC Drug Review, FDA generally does not receive information about specific varying formulations that it can use to ensure that the final finished drug products meet the standards for safety and effectiveness.

3. Limited Opportunity for Innovation

Eligibility for the OTC Drug Review is limited to active ingredients that were on the market in their specific dosage forms at the inception of the OTC Drug

Review, and products that have become eligible under the Time and Extent Application process set forth at § 330.14. Thus, when manufacturers develop new combinations of ingredients or new dosage forms (e.g. dissolving films or tablets), the OTC Drug Review is not facile in accommodating these types of changes. Due to these changes, products that are not eligible for consideration under the OTC Drug Review would otherwise require an NDA prior to marketing.

II. The Future: Modernizing the OTC Drug Review

In light of the challenges posed by the OTC Drug Review, FDA believes it is time for considering ideas for modernizing the regulation of drugs under the OTC Drug Review. We are interested in hearing ideas for changes to the existing OTC Monograph Process or ideas for its replacement with an entirely new regulatory or statutory framework.

In developing suggestions for change, FDA notes that many of the OTC Drug Review's present day challenges are systemic, and thus cannot be addressed solely by increasing resources. In this section, we identify some preliminary ideas for potential changes to the OTC Monograph Process. Although none of these ideas appear likely to lead to a comprehensive solution, we are sharing them as a starting point for a discussion on modernizing the OTC Drug Review. Our summary of these initial ideas here is not intended to define the limits of the kind of changes that might be proposed. We are interested in hearing a full range of ideas, including novel ideas for new regulatory frameworks.

Suggestions and other comments from the public need not be comprehensive to be useful. FDA is interested in ideas that may not solve every problem, but do address one or more of them. Ideally, a comprehensive solution (made up of a single proposal or a group of proposed solutions) would address all the challenges of the current system. We believe that an ideal, comprehensive solution would:

- Use modern standards for safety and efficacy,
- provide an efficient mechanism for finalizing the status of drug products that are currently marketed under pending TFMs,
- allow for innovative changes to drug products,
- provide FDA with the ability to respond promptly to emerging safety or effectiveness concerns,
- allow FDA to easily and quickly require additional information or data necessary to develop pediatric labeling where appropriate, and
- allow FDA to obtain final formulation information about individual products or readily establish final formulation testing standards.

We recognize that the preliminary concepts we discuss in this document touch upon some, but not all, of the challenges we have identified. In addition, these ideas are not necessarily limited to approaches for which FDA has existing statutory authority. These preliminary ideas are:

- Identifying a streamlined process that would allow prompt resolution of existing TFMs,
- issuing monographs by administrative order,
- issuing regulations to require product specific information and expanding the use of guidances, and
- expanding the NDA deviation process.

We invite the public to comment on these potential options, but we also encourage comments that propose other ideas.

A. Promptly Resolve Existing Tentative Final Monographs Pursuant to a Streamlined Process

FDA is considering ways to more efficiently bring TFMs to closure. We are interested in ideas for developing streamlined processes under which the Agency could promptly finalize the existing TFMs.

B. Issue Monographs by Administrative Order

This idea would involve establishing a process similar to that enacted by the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144) for device reclassifications. FDASIA changed the process by which devices are reclassified under section 513(e) of the FD&C Act from notice and comment rulemaking to an administrative order process (see 21 U.S.C. 360c(e)(1)(A)(i)). Under this model, monographs could be established by administrative order, after issuance of a proposed order for comment.

C. Issuing Regulations To Require Product Specific Information and Expanding the Use of Guidances

FDA could issue new regulations that would require that manufacturers submit, prior to marketing, limited information about individual products that will be using active ingredients that have been determined to be GRAS/GRAE. The individual product information requested might be similar to, but less detailed than, what is required under an NDA and could include, for example, labeling, and quality and pharmacokinetic information. FDA could then issue guidances recommending the types of information FDA would be seeking. FDA's use of guidances under this framework could increase the Agency's flexibility to address specific product issues as they arise.

D. Expand the NDA Deviation Process

The OTC Drug Review regulations provide a process for approving a drug product that complies with the conditions of a final monograph except for a deviation (§ 330.11). In this instance, a sponsor can apply for an NDA deviation by submitting an NDA showing that the product complies with the conditions of the monograph except for the deviation and providing the necessary data to demonstrate the safety and effectiveness of the product with the deviation. For example, an OTC monograph may not cover certain dosage forms of a monograph ingredient. The manufacturer of a proposed different dosage form could submit an NDA that relies on the final monograph to demonstrate the safety and efficacy for the drug except for the differences related to the change in dosage form. The NDA would also need to include the appropriate data to demonstrate the safety and effectiveness of the new dosage form. The approved NDA would be specific only to the NDA sponsor and would not amend the monograph.

Industry has not utilized the NDA deviation process as a pathway to marketing very often. The Agency is interested in learning why this is and whether there are changes that could be made to the existing NDA deviation process that would make it a more attractive alternative for industry and that could allow marketing of additional drug products without having to submit a full NDA.

III. Scope of the Public Hearing

FDA is holding this public hearing to seek input on possible ways to modernize the OTC Monograph Process in order to make the process more responsive to emerging safety information and scientific advances. We would like feedback from a variety of interested members of the public, including consumers; industry; and pharmacists, physicians, and other members of the medical community. FDA is interested in obtaining information and public comment in the following areas:

A. Strengths and Weaknesses of the Existing OTC Drug Review

- What aspects of the OTC Drug Review continue to function effectively?
- Which aspects of the OTC Drug Review are most in need of change?
- Are there additional mechanisms to eligibility for the OTC Drug Review that could be explored? If so, what should be the parameters of eligibility?
- Why is the NDA deviation process rarely used by industry? Are there changes to that process that would make it a more appealing and appropriate alternative pathway?

B. Preliminary Concepts for Modernization Described in This Document

We welcome views on the following preliminary concepts identified by FDA for modernizing the OTC Drug Review:

- Ideas for a streamlined process that would allow us to promptly resolve all TFMs.
- Issue monographs by administrative order.
- Issue regulations to require product specific information and expand the use of guidances.
- Expand the NDA deviation process.

C. Your Suggestions for Modifications or Alternatives to the OTC Drug Review

- What alternatives or changes to the OTC Drug Review would modernize or improve FDA's regulation of monograph drugs?
- What changes can facilitate speedier finalization of the remaining monographs?
- How can the Agency most expeditiously address emerging safety issues for drugs regulated under the OTC Drug Review?
- Are there specific changes to the OTC Drug Review that the Agency could employ to address the lack of pediatric data for some final monographs?
- Should the only alternative to marketing an OTC drug under an OTC monograph be an NDA or abbreviated NDA approval? If not, what could another alternative be?
- Are there other regulatory mechanisms (not necessarily used for the regulation of drug products) that are used by other agencies in the United States or in other countries that FDA could consider using to regulate OTC drugs products?

IV. Attendance and/or Participation in the Public Hearing

The public hearing is free and seating will be on a first-come, first-served basis. If you wish to make an oral presentation during the hearing, you must register by submitting either an electronic or a written request by 5 p.m. on March 12, 2014, to Mary Gross or Georgiann Ienzi (see **FOR FURTHER INFORMATION CONTACT**). Submit electronic requests to *CDEROTCMONOGRAPH@fda.hhs.gov*. We recommend that you register early because seating is limited. You must provide your name, title, business affiliation (if applicable), address, telephone and fax numbers, email address, and type of organization you represent (e.g., industry, consumer organization, etc.). You also should submit a brief summary of the presentation, including the discussion topic(s) that will be addressed and the approximate time requested for your presentation. FDA encourages individuals and organizations with common interests to coordinate and give a joint, consolidated presentation. Registrants will receive confirmation once they have been accepted to attend the meeting. FDA may limit both the number of participants from individual organizations and the total number of attendees based on space limitations. Registered presenters should check in before the hearing.

Participants should submit a copy of each presentation to Mary Gross or Georgiann Ienzi (see **FOR FURTHER INFORMATION CONTACT**) no later than 5 p.m. on March 12, 2014. We will file the hearing schedule, indicating the order of presentation and the time allotted to each person, with the Division of Dockets Management (see *Comments and Transcripts*). FDA will post an agenda of the public hearing and other background material at least 3 days before the public hearing and additional information will be available at: *http://www.fda.gov/Drugs/NewsEvents/ucm380446.htm* (select this hearing from the events list).

We will mail, email, or telephone the schedule to each participant before the hearing. In anticipation of the hearing presentations moving ahead of schedule, participants are encouraged to arrive early to ensure their designated order of presentation. Participants who are not present when called risk forfeiting their scheduled time.

If you need special accommodations due to a disability, contact Mary Gross or Georgiann Ienzi (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the hearing.

V. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The hearing will be conducted by a presiding officer, who will be accompanied by FDA senior management from the Office of the Commissioner and the relevant centers.

Under § 15.30(f), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation (§ 15.30(e)). Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (21 CFR part 10, subpart C) (§ 10.203(a)). Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b). (See section VII for more details.) To the extent that the conditions for the hearing as described in this document conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

Dated: February 19, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03884 Filed 2–21–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Study of Women's Health Across the Nation (SWAN).

Date: March 13, 2014.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

Contact Person: Isis S. Mikhail, MD, MPH, DRPH, Scientific Review Officer, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2c212, Bethesda, MD 20892, 301–402–7702, *MIKHAILI@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 18, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03774 Filed 2–21–14; 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 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 Mental Health Special Emphasis Panel; Intervention Conflicts Panel Review.

Date: March 10, 2014.

Time: 1:15 p.m. to 5:00 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: A. Roger Little, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health National Institutes of Health, 6001 Executive Blvd., Room 6132, Bethesda, MD 20892–9609, 301–402–5844, *alittle@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; National Cooperative Reprogrammed Cell Research Groups (NCRCRG) to Study Mental Illness.

Date: March 14, 2014.

Time: 1:00 p.m. to 3:00 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: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Innovative Pilot Studies—Mechanism of Action—Treating Psychiatric Disorders.

Date: March 17, 2014.

Time: 1:00 p.m. to 3:00 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: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: February 18, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03775 Filed 2–21–14; 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; IBD R01 Review.

Date: March 18, 2014.

Time: 2:00 p.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 Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–4721, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Studies to ASSESS–AKI.

Date: April 9, 2014.

Time: 3:00 p.m. to 5:00 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: Barbara A. Woynarowska, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@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: February 18, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03770 Filed 2–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Special Emphasis Panel; Peer Review of U54 Grant Applications.

Date: March 3, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18, Bethesda, MD 20892.

Contact Person: Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18A, Bethesda, MD 20892, 301–594–2704, *newmanla2@mail.nih.gov.*

This notice is being published less than15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 18, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03773 Filed 2–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Board of Scientific Advisors, scheduled to be held on March 6, 2014, from 9:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, Conference Room 10, Bethesda, MD, 20892 which was published in the **Federal Register** on February 05, 2014, 79FR6913.

This notice is amended to change the meeting time and format to a virtual meeting to be held on March 6, 2014, from 12:00 p.m. to 2:00 p.m. The meeting is open to the public. Members of the public may attend the meeting at the conference room listed above.

Dated: February 18, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03771 Filed 2–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Special Emphasis Panel; Review of Grant Applications.

Date: March 13, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18B, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Margaret J. Weidman, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18B, Bethesda, MD 20892, 301–594–3663, *weidmanma@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Clinical Trial Planning Grant.

Date: March 14, 2014.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18A, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18A, Bethesda, MD 20892, 301–594–2704, *newmanla2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 18, 2014

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03772 Filed 2–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: 2013–0046; OMB No. 1660–0029]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 26, 2014.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Approval and Coordination of Requirements to Use the NETC Extracurricular for Training Activities.

Type of information collection: Extension, without change, of a

currently approved information collection.

OMB Number: 1660–0029.

Form Titles and Numbers: FEMA Form 119–17–1, Request for Housing Accommodations; FEMA Form 119–17–2, Request for Use of NETC Facilities.

Abstract: FEMA established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland to offer training for the purpose of emergency preparedness. The NETC site has facilities and housing available for those participating in emergency preparedness. When training space and/or housing is required for those attending the training, an entity must request use of these areas in advance. This collection provides the mechanism to receive such requests.

Affected Public: Not-for-profit institutions; Federal Government; State, Local or Tribal Government; Individuals or households; and Business or other for-profit. *Estimated Number of Respondents:* 60.

Estimated Total Annual Burden Hours: 12 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $370.00. There are no annual costs to respondents operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $10,843.00.

Dated: February 7, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–03756 Filed 2–21–14; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–FEMA–2013–0018; OMB No. 1660–0061]

Agency Information Collection Activities: Proposed Collection; Comment Request, Federal Assistance to Individuals and Households Program, (IHP)

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 need to continue collecting information from individuals and States in order to provide and/or administer disaster assistance through the Federal Assistance to Individuals and Households Programs.

DATES: Comments must be submitted on or before April 25, 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–2013–0018. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, 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: Contact Jennie Gallardy-Orenstein, Program Specialist, Recovery Directorate, Individual Assistance Division at (202) 212–1000 for further information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Act) is the legal basis for FEMA to provide disaster related assistance and services to individuals who apply for disaster assistance benefits in the event of a federally declared disaster. The Individuals and Households Program (IHP) (the Act at 5174, Federal Assistance to Individuals and Households) provides financial assistance to eligible individuals and households who, as a direct result of a major disaster or emergency have necessary expenses and serious needs. The "Other Needs Assistance" (ONA) provision of IHP provides disaster assistance to address needs other than housing, such as personal property, transportation, etc.

The delivery of the ONA provision of IHP is contingent upon the State/Tribe choosing an administrator for the assistance. States/Tribes satisfy the selection of an administrator of ONA by completing the Administrative Option Agreement (FEMA Form 010–0–11), which establishes a plan for the delivery of ONA. This agreement establishes a partnership with FEMA and inscribes the plan for the delivery of disaster assistance. The agreement is used to identify the State/Tribe's proposed level of support and participation during disaster recovery. In response to Super Storm Sandy (October 2012), Congress added "child care" expenses as a category of ONA through the Sandy Recovery Improvement Act of 2013 (SRIA), Public Law 113–2. Section 1108 of the SRIA amends section 408(e)(1) of the Stafford Act (42 U.S.C. 5174(e)(1)), giving FEMA the specific authority to pay for "child care" expenses as disaster assistance under ONA.

Collection of Information

Title: Federal Assistance to Individuals and Households Program, (IHP).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0061.

Form Titles and Numbers: FEMA Form 010–0–11, Administrative Option Agreement for the Other Needs provision of Individuals and Households Program, (IHP); FEMA Form 010–0–12, Request for Continued Assistance (Application for Continued Temporary Housing Assistance); FEMA Form 010–0–12S (Spanish) Solicitud para Continuar la Asistencia de Vivienda Temporera.

Abstract: The Federal Assistance to Individuals and Households Program (IHP) enhances applicants' ability to request approval of late applications, request continued assistance, and appeal program decisions. Similarly, it allows States to partner with FEMA for delivery of disaster assistance under the "Other Needs" provision of the IHP through Administrative Option Agreements and Administration Plans addressing the level of managerial and resource support necessary.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 59,073.
Number of Responses: 78,399.
Estimated Total Annual Burden Hours: 65,267 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
Individuals or Households	Request for Approval of Late Registration/No Form.	2,299	1	2,299	0.75 (45 mins.)	1,724	$31.30	$53,969.03
Individuals or Households	Request for Continued Assistance/FEMA Form 010–0–12.	6,311	4	25,244	1	25,244	31.30	790,137.20
Individuals or Households	Solicitud para Continuar la Asistencia de Vivienda Temporera/FEMA Form 010–0–12S.	131	4	524	1	524	31.30	16,401.20
Individuals or Households	Appeal of Program Decision/No Form.	50,270	1	50,270	0.75 (45 mins.)	37,703	31.30	1,180,088.25
State, Local or Tribal Government.	Administrative Option Agreement (for the other needs provision of IHP)/FEMA Form 010–0–11.	56	1	56	1.08	60	36.96	2,236.08
State, Local or Tribal Government.	Development of State Administrative Plan for the other needs provision of IHP/No Form.	6	1	6	2	12	36.96	443.52
Total		59,073		78,399		65,267		2,043,275.28

• **Note:** The "Average hourly wage rate" for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $2,043,275.28. 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 $213,556.60.

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: February 7, 2014.

Charlene D. Myrthil

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–03757 Filed 2–21–14; 8:45 am]

BILLING CODE 9111– 23–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request; Extension of an Information Collection

ACTION: 30-day Notice of Information Collection for review; Electronic Bonds Online (eBonds) Access; OMB Control No. 1653–0046.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. The information collection was previously published in the **Federal Register** on December 16, 2013, Vol. 78 No. 29761 allowing for a 60-day comment period. USICE received no comments during this period. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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 agencies 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:* Extension of a currently approved information collection

(2) *Title of the Form/Collection:* Electronic Bonds Online (eBonds) Access

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* ICE Form I–352SA (Surety eBonds Access Application and Agreement); ICE Forms I–352RA (eBonds Rules of Behavior Agreement); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The information taken in this collection is necessary for ICE to grant access to eBonds and to notify the public of the duties and responsibilities associated with accessing eBonds. The I–352SA and the I–352RA are the two instruments used to collect the information associated with this collection. The I–352SA is to be completed by a Surety that currently holds a Certificate of Authority to act as a Surety on Federal bonds and details the requirements for accessing eBonds as well as the documentation, in addition to the I–352SA and I–352RA, which the Surety must submit prior to being granted access to eBonds. The I–352RA provides notification that eBonds is a Federal government computer system and as such users must abide by certain conduct guidelines to access eBonds and the consequences if such guidelines are not followed.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

Dated: February 19, 2014.

Scott Elmore,

Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2014–03819 Filed 2–21–14; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–19]

30-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans; MIP Processing, Escrow Administration, Customer Service, Servicing Fees and 235 Loans

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:* March 26, 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 November 20, 2013.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans; MIP Processing, Escrow Administration, Customer Service, Servicing Fees and 235 Loans.

OMB Approval Number: 2502–0583.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–9519–A, HUD–9539, HUD–27011, Parts A, B, C, D, E Single Family Application for Insurance Benefits, HUD–50002, HUD–50012, HUD–91022.

Description of the need for the information and proposed use: This information request for OMB review seeks to combine the requirements of an existing OMB collection under this comprehensive collection for mortgagees that service FHA-insured mortgage loans and the mortgagors who are involved with collection and payment of mortgage insurance premiums, payment processing, escrow account administration, providing loan information and customer service, assessing post endorsement fees and charges and servicing Section 235 loans.

Respondents (i.e. affected public): 324.

Estimated Number of Respondents: 324.

Estimated Number of Responses: 74,726,967.

Frequency of Response: 1.

Average Hours per Response: 50.

Total Estimated Burdens: 2,644,446.

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. Chapters 35.

Dated: February 12, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–03887 Filed 2–21–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–20]

30-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing Involving the Claims and Conveyance Process Property Inspection/Preservation

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:* March 26, 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 November 12, 2013.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing Involving the Claims and Conveyance Process Property Inspection/ Preservation.

OMB Approval Number: 2502–0429.

Type of Request: Extension of a currently approved collection.

Form Number: HUD 91022, HUD 50012, HUD 09539, HUD–9519a, HUD 95190–a, HUD 27011, HUD 50002.

Description of the need for the information and proposed use: This collection of information consists of the sales contracts and addenda that will be used in binding contracts between purchasers of acquired single-family assets and HUD.

Respondents (i.e. affected public): Business.

Estimated Number of Respondents: 324.

Estimated Number of Responses: 1,087,913.

Frequency of Response: Monthly.

Average Hours per Response: 30 minutes.

Total Estimated Burdens: 1,347,549.

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. Chapters 35.

Dated: February 12, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–03886 Filed 2–21–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–21]

30-Day Notice of Proposed Information Collection: Application for FHA Insured Mortgages

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:* March 26, 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 December 11, 2013.

A. Overview of Information Collection

Title of Information Collection: Application for FHA Insured Mortgage.

OMB Approval Number: 2502–0059.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–92900–A, HUD–92900–B, HUD–92900–LT, HUD–92561, Addendum to HUD–1, Model, Notice for Informed Consumer Choice Disclosure, Model Pre-Insurance Review/Checklist.

Description of the need for the information and proposed use: Specific forms and related documents are needed to determine the eligibility of the borrower and proposed mortgage transaction for FHA's insurance endorsement. Lenders seeking FHA's insurance prepare certain forms to collect data.

Respondents (i.e. affected public): 1,239,416.

Estimated Number of Respondents: 11,604.

Estimated Number of Responses: 1 document per loan.

Frequency of Response: 90 minutes.

Average Hours per Response: 534,931.

Total Estimated Burdens: 1,347,549.

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. Chapters 35.

Dated: February 12, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–03883 Filed 2–21–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2011–N029; 41910–1112–0000–F2]

Endangered and Threatened Wildlife and Plants; Receipt of Application for Incidental Take Permit; Availability of Proposed Low-Effect Habitat Conservation Plan; City of Deltona, Volusia County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt; request for comment/information.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application from the City of Deltona (applicant), for a 10-year incidental take permit (ITP; # TE28377B–0) under the Endangered Species Act of 1973, as amended (Act). We request public comment on the permit application and accompanying proposed habitat conservation plan (HCP), as well as on our preliminary determination that the plan qualifies as low-effect under the National Environmental Policy Act (NEPA). To make this determination we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by March 26, 2014.

ADDRESSES: If you wish to review the application and HCP, you may request documents by email, U.S. mail, or phone (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

Email: northflorida@fws.gov. Use "Attn: Permit number TE28377B–0" as your message subject line.

Fax: Field Supervisor, (904) 731–3045, Attn.: Permit number TE28377B–0.

U.S. mail: Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE28377B–0, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, telephone: (904) 731–3121; email: *erin_gawera@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act (16 U.S.C. 1531 et seq.) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR Part 17 prohibit the "take" of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532). However, under limited circumstances, we issue permits to authorize incidental take—i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The Act's take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, an incidental take permit's proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicant's Proposal

The applicant is requesting take of approximately 1.9 acres (ac) of occupied Florida scrub-jay foraging and sheltering habitat incidental to construction of a 35-ac public utility, and seeks a 10-year permit. The 122-ac project site is located on parcel numbers 31183166150001, 31183105150010, 31183105140010, 31183105130010, 31183105120010, 31183105110010, 31183105160010, 31183105170010, 31183105180010, 31183105190010, 31183105200010, 31183104050010, 31183104040010, 31183104030010, 31183104020010, 31183104010010, 31183166170001, 31183104060010, 31183104070010, 31183104080010, 31183104090010, 31183104100010, 31183103010010, 31183103020010, 31183103030010, 31183103040010, 31183103050010, 31183103060010, 31183103070010, 31183103080010, 31183103090010, 31183103100010, 31183103030010, and 31183103080160, within Section 31, Township 18 South, Range 31 East, Volusia County, Florida. The project includes construction of a public utility and the associated infrastructure, and landscaping. The applicant proposes to mitigate for the take of the Florida scrub-jay through the deposit of good funds in the amount of $56,243.80 to the Nature Conservancy's Conservation Fund, for the management and conservation of the Florida scrub-jay based on Service Mitigation Guidelines.

Our Preliminary Determination

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, we determined that the ITP is a "low-effect" project and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). A low-effect HCP is one involving (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

Next Steps

We will evaluate the plan and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 et seq.). If we determine that the application meets these requirements, we will issue ITP # TE28377B–0. We will also evaluate whether issuance of the 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 the requirements are met, we will issue the permit to the applicant.

Public Comments

If you wish to comment on the permit application, plan, and associated documents, you may submit comments

by any one of the methods in **ADDRESSES.**

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: February 14, 2014.

Jay B. Herrington,

Field Supervisor, Jacksonville Field Office.

[FR Doc. 2014–03821 Filed 2–21–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON06000–L16100000–DQ0000]

Notice of Resource Advisory Council Meeting for the Dominguez-Escalante National Conservation Area Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Dominguez-Escalante National Conservation Area (NCA) Advisory Council (Council) will meet as indicated below.

DATES: The meeting will be held on April 16, 2014, from 3 p.m. to approximately 6 p.m. Any adjustments to this meeting will be posted on the Dominguez-Escalante NCA RMP Web site: *http://www.blm.gov/co/st/en/nca/denca/denca_rmp.html.*

ADDRESSES: The meeting will be held at the Bill Heddles Recreation Center, 530 Gunnison River Drive, Delta, CO 81416.

FOR FURTHER INFORMATION CONTACT: Collin Ewing, Advisory Council Designated Federal Official, 2815 H Road, Grand Junction, CO 81506. Phone: (970) 244–3049. Email: *cewing@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the resource management plan (RMP) process for the Dominguez-Escalante NCA and Dominguez Canyon Wilderness.

Topics of discussion during the meeting may include informational presentations from various resource specialists working on the RMP as well as Council reports on the following topics: Recreation, fire management, land-use planning process, invasive species management, travel management, wilderness, land exchange criteria, cultural resource management and other resource management topics of interest to the Council that were raised during the planning process.

These meetings are anticipated to occur quarterly, and may occur as frequently as every two weeks during intensive phases of the planning process. Dates, times and agendas for additional meetings may be determined at future Council meetings, and will be published in the **Federal Register,** announced through local media and on the BLM's Web site for the Dominguez-Escalante planning effort (*www.blm.gov/co/st/en/nca/denca/denca_rmp.html*).

These meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will have time allocated at the middle and end of each meeting to hear public comments. Depending on the number of persons wishing to comment and time available, the time for individual, oral comments may be limited at the discretion of the chair.

Ruth Welch,

BLM Colorado Acting State Director.

[FR Doc. 2014–03824 Filed 2–21–14; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–14993; 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 February 1, 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 March 11, 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: February 6, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

COLORADO

Larimer County

Milner—Schwarz House, 710 S. Railroad Ave., Loveland, 14000058

Las Animas County

Emerick, Charles, House, 1211 Nevada Ave., Trinidad, 14000059

Rio Blanco County

Meeker I.O.O.F. Lodge—Valentine Lodge No. 47, 400 Main St., Meeker, 14000060

GEORGIA

Cobb County

Root, William and Hannah, House, 145 Denmead St., NW., Marietta, 14000061

MASSACHUSETTS

Bristol County

Griffin Street Cemetery, S. 2nd & Griffin Sts., New Bedford, 14000062

Suffolk County

Highland School, 36 Grovers Ave., Winthrop, 14000063

NEW JERSEY

Atlantic County

ROBERT J. WALKER (shipwreck and remains), Address Restricted, Atlantic City, 14000064

Sussex County

Millville Historic and Archaeological District, Cty. Rds. 521 & 653, Millville & Weider Rds., Montague Township, 14000065

NEW YORK

Madison County

Riester, Dorothy, House and Studio, 3883 Stone Quarry Rd., Cazenovia, 14000066

VIRGINIA

Arlington County

Arlington House Historic District, Roughly bounded by Sheridan, Humphreys, Ord & Weitzel Drs., Lee Ave., Arlington, 14000067

A request to move has been received for the following resource:

OHIO

Hamilton County

Probasco Fountain, (Samuel Hannaford and Sons TR in Hamilton County) Clifton Ave., Cincinnati, 80003077

[FR Doc. 2014–03786 Filed 2–21–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–14923; 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 January 25, 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 March 11, 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: January 28, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ALABAMA

Madison County

Twickenham Historic District (Boundary Increase), Roughly bounded by Clinton Ave., California St., Newman Ave., S. Green & Franklin St., Huntsville, 14000045

MASSACHUSETTS

Franklin County

Benson's New Block and the Mohawk Chambers, 136–138 & 130–134 Main St. & 11 Wells St., Greenfield, 14000046

MISSOURI

Adair County

Laughlin, Drs. George and Blanche, House, 706 S. Halliburton St., Kirksville, 14000047

Sojourners Club, 211 S. Elson St., Kirksville, 14000048

OKLAHOMA

Cleveland County

Logan Apartments, 720 W. Boyd St., Norman, 14000049

Delaware County

Beattie's Prairie, (Cherokee Trail of Tears MPS) Address Restricted, Jay, 14000050

Muskogee County

First Methodist Episcopal Church, 518 E. Houston St., Muskogee, 14000052

Masonic Temple, 121 S. 6th St., Muskogee, 14000053

Tulsa County

Woodward Park and Gardens Historic District, 2101 & 2435 S. Peoria Ave., Tulsa, 14000054

Washington County

Washington County Memorial Hospital, 412 SE. Frank Phillips Blvd., Bartlesville, 14000055

SOUTH CAROLINA

Charleston County

Mikell, Isaac Jenkins, House, 94 Rutledge Ave., Charleston, 14000056

TENNESSEE

Sullivan County

Grand Guitar, 3245 W. State St., Bristol, 14000057

[FR Doc. 2014–03780 Filed 2–21–14; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–752 (Third Review)]

Crawfish Tail Meat From China; Scheduling of an Expedited Five-Year Review Concerning the Antidumping Duty Order on Crawfish Tail Meat From China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on crawfish tail meat from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 4, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special

assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On February 4, 2014, the Commission determined that the domestic interested party group response to its notice of institution (78 FR 65709, November 1, 2013) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on March 18, 2014, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before March 21, 2014 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by March 21, 2014. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov*.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: February 18, 2014.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–03808 Filed 2–21–14; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the response submitted by the Crawfish Processors Alliance to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board; Notice of Meeting

This notice announces a forthcoming meeting of the National Institute of Corrections (NIC) Advisory Board. At least one portion of the meeting will be closed to the public.

NAME OF THE COMMITTEE: NIC Advisory Board.

GENERAL FUNCTION OF THE COMMITTEE: To aid the National Institute of Corrections in developing long-range plans, advise on program development, and recommend guidance to assist NIC's efforts in the areas of training, technical assistance, information services, and policy/program development assistance to Federal, state, and local corrections agencies.

DATE AND TIME: 8:00 a.m.–4:30 p.m. on Thursday, March 20, 2014.

LOCATION: National Institute of Corrections, 500 First Street NW., 2nd Floor, Washington, DC 20534 (202) 514–4222.

CONTACT PERSON: Shaina Vanek, Executive Assistant, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. To contact Ms. Vanek, please call (202) 514–4222.

AGENDA: On March 20, 2014, the Advisory Board will hear updates on the following topics: (1) Agency Report from the NIC Acting Director, (2) updates from NIC division chiefs on current activities, (3) outcomes of the pilot test on private corrections access to eLearning modules on *http://nicic.gov/LearningCenter* and (4) collaboration and partnership with the Office of National Drug Control Policy.

PROCEDURE: On March 20, 2014, from 8:00 a.m. until 4:30 p.m., the meeting is open to the public. 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 March 7, 2014. Oral presentations from the public will be scheduled between approximately 11:15 a.m. to 11:30 a.m. and 4:00 p.m. to 4:15 p.m. on March 20, 2014. Time allotted for each presentation may be limited. Those desiring to make 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 March 7, 2014.

GENERAL INFORMATION: NIC 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 Shaina Vanek at least 7 days in advance of the meeting. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Robert M. Brown, Jr.,

Acting Director, National Institute of Corrections.

[FR Doc. 2014–03790 Filed 2–21–14; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Qualification/Certification Program Request for Mine Safety and Health Administration Individual Identification Number

AGENCY: Office of the Secretary, DOL.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, "Qualification/Certification Program Request for Mine Safety and Health Administration Individual Identification Number," to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit comments on or before March 26, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201401-1219-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL—MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3507(a)(1)(D).

This ICR seeks to maintain PRA authorization for the Qualification/Certification Program Request for Mine Safety and Health Administration Individual Identification Number, Form MSHA–5000–46, information collection. The MSHA issues certifications, qualifications, and approvals (licenses) to the nation's miners to conduct specific work within mines. A miner requiring a license or benefit from the MSHA registers for a MSHA Individual Identification Number (MIIN). This unique number is used as a personal identifier, in place of an individual's Social Security Number, for all MSHA licensing requirements. This process has allowed the MSHA to discontinue the past practice of an individual routinely supplying personally identifiable information to an instructor, State, or other entity that, in turn, supplies information to the MSHA to track an individual miner within a MSHA data processing system.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0143.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on April 30, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 29, 2013 (78 FR 71672).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0143. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Qualification/Certification Program Request for Mine Safety and Health Administration Individual Identification Number.

OMB Control Number: 1219–0143.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 16,000.

Total Estimated Number of Responses: 16,000.

Total Estimated Annual Time Burden: 1,333 hours.

Total Estimated Annual Other Costs Burden: $58,827.

Dated: February 18, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–03842 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications for YouthBuild

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY–13–04

SUMMARY: The Employment and Training Administration (ETA), U.S.

Department of Labor (DOL), announces the availability of approximately $73 million for YouthBuild grants.

YouthBuild grants will be awarded through a competitive process. Under this SGA, DOL will award grants to organizations to oversee the provision of education, occupational skills training, and employment services to disadvantaged youth in their communities while performing meaningful work and service to their communities. Based on our estimate of FY 2014 funding, DOL hopes to serve approximately 4,950 participants during the grant period of performance, with approximately 75 projects awarded across the country.

The complete SGA and any subsequent SGA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov*. The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications under this announcement is April 22, 2014. Applications must be received no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Denise Roach, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Telephone: 202–693–3820.

Signed: February 18, 2014, in Washington, DC.

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

[FR Doc. 2014–03850 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications for Training To Work 2-Adult Reentry

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY–13–03.

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor, announces the availability of approximately $30 million for grants to serve male and female ex-offenders enrolled in work release programs (WRPs) as authorized by the Workforce Investment Act and the Second Chance Act of 2007.

This Training to Work 2-Adult Reentry SGA provides the opportunity for organizations to develop and implement career pathway programs in demand sectors and occupations for individuals who are at least 18 years old and who are enrolled in WRPs. Career pathways are frameworks that help to define and map out a sequence of education, training and workforce skills training resulting in skilled workers that meets employers' needs. Career pathways are an approach to linking and coordinating education and training services in ways that enable individuals to attain such credentials, and ultimately, employment.

Successful applicants will: (1) Establish a committed Career Pathways Collaborative led by the grantee that will be a non-profit organization such as a faith-based or community-based organization, and include representatives from the workforce system, WRP, and employers and/or industry associations. The collaborative will create a career pathway(s) program that defines each organizations' specific roles and responsibilities including the identification of a career pathway(s) in demand sector(s) within its community, and (2) provide an integrated set of critical participant-level services such as case management and skills training that enable participants to get on the career pathway(s) and advance along those pathways as they acquire additional skills.

The complete SGA and any subsequent SGA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov*. The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications under this announcement is April 18, 2014. Applications must be received no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Mamie Williams, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Telephone: 202–693–3341.

Signed February 18, 2014 in Washington, DC

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

[FR Doc. 2014–03895 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *February 3, 2014 through February 7, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–85,007; D.R. Johnson Lumber Company, Riddle, Oregon: January 8, 2013.

TA–W–85,007A; Umpqua Lumber Company, Dillard, Oregon: January 8, 2013.

TA–W–85,017; Alcoa, Inc., Rockdale, Texas: January 15, 2013.

TA–W–85,034; Celestica Aerospace Technologies Corp (CATC), Austin, Texas: January 23, 2013.

TA–W–85,044; Via Optronics, LLC, Hillsboro, Oregon: January 30, 2013.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–85,027; CHF Industries, Inc., Loris, South Carolina

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

None

I hereby certify that the aforementioned determinations were issued during the period of *February 3, 2014 through February 7, 2014.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 12th day of February 2014.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–03838 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *January 27, 2014 through January 31, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles

produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1- year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
83,144	Dallco Industries, Inc.	York, PA	October 1, 2012.
83,144A	Dallco Industries, Inc.	Rockhill Furnace, PA	October 1, 2012.
83,170	Ball Container LLC, Metal Beverage Packaging Division	Gainesville, FL	October 24, 2012.
83,319	Viatech Publishing Solutions, Inc	Springfield, MO	December 20, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
83,104	Rhythm and Hues Studios	El Segundo, CA	September 23, 2012.
83,179	Gamesa Technology Corporation, A & A Wind, ABB, Inc., Airway, Amerisafe, Apex, Avanti, Broadwind, etc.	Trevose, PA	October 29, 2012.
83,179A	Gamesa Technology Corporation, Sunstates, Clean Net, Accurate Forklift, Taylor, Cargo Tech.	Fairless Hills, PA	October 29, 2012.
83,201	Autosplice, Inc.	San Diego, CA	November 5, 2012.
83,256	IBM Corporation, GSMRT Development, Test and Tech Support Team, Global Technology, Artech.	Boulder, CO	December 2, 2012.
83,287	Mosaic USA LLC, Potash Division, CoStaff Services	Hersey, MI	December 11, 2012.
83,301	UnitedHealth Group, Inc., Business Process Quality Management Department, Claim Quality Area.	Hooksett, NH	December 9, 2012.
83,301A	UnitedHealth Group, Inc., Business Process Quality Management Department, Claim Quality Area.	Trumbull, CT	December 9, 2012.
83,312	Eaton Corporation, Cooper Power Systems, Power Delivery Division	Olean, NY	December 18, 2012.
83,320	FIS Management Services, LLC, FIS, Adecco, USA, Aerotek, Extension, Insync, Manpower, Randstad.	Milwaukee, WI	December 20, 2012.
83,342	Citibank, N.A., Citigroup, Inc., Global Consumer Retail Banking, Rainbow, Deployment, etc.	Long Island City, NY	December 27, 2012.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
83,347	Koppers Inc., Carbon Materials and Chemicals Division	Follansbee, WV	December 30, 2012.

The following certifications have been issued. The requirements of Section 222(f) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
83,325	Broadwind Towers, Inc., Advantage Staffing and SOS Staffing	Abilene, TX	February 13, 2012.
83,338	Broadwind Energy, Inc., Flex Staff, Inc.	Manitowoc, WI	February 13, 2012.

Negative Determinations For Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1)(employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
83,275	St. Louis Post-Dispatch, LLC, Prepress Graphic Design Division, Enterprises, Inc..	St. Louis, MO	
83,326	Advance Tabco	Edgewood, NY.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
83,277	FLSmidth, Inc., Customer Services Division, Allied Personnel Services, Peak Technical.	Bethlehem, PA	
83,296	Berry Plastics Corporation, Sedona Staffing	Alsip, IL	

I hereby certify that the aforementioned determinations were issued during the period of *January 27, 2014 through January 31, 2014.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington DC, this 10th day of February 2014.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–03839 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *February 3, 2014 through February 7, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
83,095	Columbus Show Case Worldwide, The Columbus Show Case Company, CSC Worldwide.	Columbus, OH	September 12, 2012.
83,129	International Paper Company, Courtland Alabama Paper Mill, Printing & Communications Papers Division.	Courtland, AL	October 10, 2012.
83,288	H. J. Heinz Company, L.P., Frozen Foods Division, American Staffing Agency.	Ontario, OR	December 11, 2012.
83,292	Advanced Monolythic Ceramics, Inc., Johanson Corporation.	Olean, NY	December 12, 2012.
83,302	American Bridge Manufacturing	Coraopolis, PA	December 9, 2012.
83,340	Noranda Aluminum, Inc., Manpower	New Madrid, MO	December 26, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
83,156	The Travelers Indemnity Company, Personal Insurance Division.	Syracuse, NY	March 26, 2013.
83,166	Ryder Integrated Logistics, GE Transportation	Grove City, PA	October 23, 2012.
83,225	Pilkington North America, Inc., Balance Staffing	Lathrop, CA	November 18, 2012.
83,297	Convergys Corporation, Technical Routing Group.	Ogden, UT	December 13, 2012.
83,298	Vantiv, LLC, Vantiv Holding, LLC, Adecco, Aerotek, Ascendum, Callibrity Solutions.	Symmes Township, OH	December 13, 2012.
83,316	HBC Solutions Inc., YOH and Tecom Group	Limerick, PA	December 19, 2012.
83,337	Hewitt Associates, LLC, AON Consulting, Recruitment Process (RPO), Remote Workers.	Lincolnshire, IL	December 26, 2012.
83,353	NCO Financial Systems, Inc., Healthcare ESO/PASC, National Client Services, Apple One Employment Service.	Norcross, GA	December 30, 2012.
83,362	Federal-Mogul Corporation, VCS, Braking Division, SMX/Staff Management and Thompson Construction.	Orangeburg, SC	December 31, 2012.

Negative Determinations For Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
83,299	Transwitch Corporation	Shelton, CT.	
83,323	Dell Products LP, Dell, Inc., Graphics Development for Client.	Austin, TX.	
83,354	Logicus LLC	Dallas, TX.	

Determinations Terminating Investigations Of Petitions For Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
83,161	American Express Travel Related Services Company Inc.	Salt Lake City, UT	

I hereby certify that the aforementioned determinations were issued during the period of *February 3, 2014 through February 7, 2014.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 12th day of February 2014.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–03840 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 6, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 6, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this February 12, 2014.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[12 TAA Petitions Instituted Between 1/27/14 and 1/31/14]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85035	Hewlett Packard (State/One-Stop)	Ft. Collins, CO	01/27/14	01/24/14
85036	Kelsey-Hayes Company (State/One-Stop)	Sterling Heights, MI	01/28/14	01/27/14
85037	Honeywell (Workers)	Irving, TX	01/28/14	01/27/14
85038	Tate and Kirlin Associates (Workers)	Philadelphia, PA	01/29/14	01/28/14
85039	Freescale Semiconductor Inc (Workers)	Austin, TX	01/29/14	01/28/14
85040	S & S Transportation (State/One-Stop)	Lincoln, ME	01/29/14	01/28/14
85041	Ocwen Financial Corporation (Workers)	Fort Washington, PA	01/30/14	01/30/14
85042	ASG-Worldwide (Company)	Indianapolis, IN	01/30/14	01/29/14
85043	Ross International Ltd. (Union)	Winchester, IN	01/30/14	01/29/14
85044	Via Optronics LLC (Workers)	Hillsboro, OR	01/31/14	01/30/14
85045	IZS/Tenova (Company)	Yalesville, CT	01/31/14	01/29/14
85046	AIG Claims, Inc. (Workers)	New York, NY	01/31/14	01/30/14

[FR Doc. 2014–03836 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 6, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 6, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 12th day of February 2014.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[12 TAA petitions instituted between 2/3/14 and 2/7/14]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85047	Patch Products, Inc. (Company)	Smethport, PA	02/03/14	01/31/14
85048	British Telecommunications, Americans (Workers)	Princeton, NJ	02/03/14	01/31/14
85049	ESCO Corporation (State/One-Stop)	Portland, OR	02/03/14	01/31/14
85050	Carthage Area Hospital (State/One-Stop)	Carthage, NY	02/03/14	02/03/14
85051	VEC Technology LLC (Company)	Greenville, PA	02/05/14	02/04/14
85052	Symantec (Workers)	Beaverton, OR	02/05/14	02/04/14
85053	Strippit LVD (Union)	Akron, NY	02/05/14	01/24/14
85054	Almeda Inc. (Workers)	Parkersburg, WV	02/05/14	02/03/14
85055	Ace Global (State/One-Stop)	Phoenix, AZ	02/06/14	02/05/14
85056	Virginia Church Furniture Inc. (Company)	Pulaski, VA	02/07/14	02/06/14
85057	Hyosung USA Inc. (State/One-Stop)	Utica, NY	02/07/14	02/06/14
85058	Bombardier Learjet (State/One-Stop)	Wichita, KS	02/07/14	02/06/14

[FR Doc. 2014–03837 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Current Population Survey (CPS) Volunteer Supplement," to be conducted September 2014, September 2015, and September 2016. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section below on or before April 25, 2014.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, 202–691–7628 (this is not a toll-free number). (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The September 2014 CPS Volunteer Supplement will be conducted at the request of the Corporation for National and Community Service. The Volunteer Supplement will provide information on the total number of individuals in the U.S. involved in unpaid volunteer activities, measures of the frequency or intensity with which individuals volunteer, types of organizations for which they volunteer, the activities in which volunteers participate, and the prevalence of volunteering more than 120 miles from home or abroad. It will also provide information on civic engagement and charitable donations.

Because the Volunteer Supplement is part of the CPS, the same detailed demographic information collected in the CPS will be available about respondents to the supplement. Thus, comparisons of volunteer activities will be possible across respondent characteristics, including sex, race, age, and educational attainment. It is intended that the supplement will be conducted annually, if resources permit, in order to gauge changes in volunteerism.

II. Current Action

Office of Management and Budget clearance is being sought for the CPS Volunteer Supplement. An extension of this currently approved collection is needed to continue to provide the Nation with timely information about volunteer and volunteering activities.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: CPS Volunteer Supplement.

OMB Number: 1220–0176.

Affected Public: Individuals.

Total Respondents: 63,000.

Frequency: Annually.

Total Responses: 106,000

Average Time per Response: 3 minutes.

Estimated Total Burden Hours: 5,300 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 18th day of February, 2014.

Kimberley Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–03835 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0041]

Factory Mutual Approvals LLC: Request for Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces Factory Mutual Approvals LLC's (FM) application containing a request for renewal of recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 11, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit a copy of comments and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0041, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TDY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0041). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be available online at *http://www.regulations.gov.*

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before March 11, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, phone (202) 693–2110, or email at *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification. OSHA maintains an informational Web site for each NRTL that details its scope of recognition available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

The Agency processes applications by an NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, App. II.C. In accordance with these procedures, NRTLs submit a renewal request to

OSHA, not less than nine months, or no more than one year, before the expiration date of its current recognition. A renewal request includes a request for renewal and any additional information the NRTL wishes to submit to demonstrate its continued compliance with the terms of its recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL's headquarters and key sites within the past 18 to 24 months, it will schedule the necessary on-site assessments prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces its preliminary decision to grant or deny renewal in the **Federal Register** and solicit comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

FM initially received OSHA recognition as an NRTL on June 13, 1988, and referenced in a **Federal Register** notice dated March 29, 1995 (60 FR 16167). The most recent renewal for FM was on September 12, 2001, for a five-year period expiring on September 12, 2006. FM submitted a timely request for renewal, dated November 5, 2005 (see Ex. OSHA–2007–0041–0004), and retains its recognition pending OSHA's final decision in this renewal process. The current addresses of FM facilities recognized by OSHA and included as part of the renewal request are:

1. FM Norwood, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062; and
2. FM West Gloucester, 743 Reynolds Road, West Gloucester, Rhode Island 02814.

II. Notice of Preliminary Findings

OSHA is providing notice that FM is applying for renewal of its current recognition as a NRTL. This renewal covers FM's existing NRTL scope of recognition. OSHA evaluated FM's application for renewal and preliminarily determined that FM can continue to meet the requirements prescribed by 29 CFR 1910.7 for recognition. Accordingly, OSHA is making a determination that it does not need to conduct an on-site review of FM's facilities based on its evaluations of FM's application and all other available information. This information includes OSHA's most recent audit of FM's facilities conducted on October 24–26, 2012, August 17–19, 2009, and August 5–6, 2008. The auditors found some non-conformances with the requirements of 29 CFR 1910.7. FM addressed these issues sufficiently to meet the applicable NRTL requirements. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comment as to whether FM meets the requirements of 29 CFR 1910.7 for renewal of their recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in FM's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0041.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend whether to grant FM's application for renewal. The Assistant Secretary will make the final decision on granting the application and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on February 19, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–03866 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

Canadian Standards Association: Request for Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the Canadian Standards Association's (CSA) application containing a request for renewal of recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 11, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.
2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.
3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit a copy of comments and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0042, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TDY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.
4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0042). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be available online at *http://www.regulations.gov.*
5. *Docket:* To read or download submissions or other material in the

docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before March 11, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, phone (202) 693–2110, or email at *johnson.david.w@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification. OSHA maintains an informational Web site for each NRTL that details its scope of recognition available at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

The Agency processes applications by an NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, App. II.C. In accordance with these procedures, NRTLs submit a renewal request to OSHA, not less than nine months or no more than one year, before the expiration date of its current recognition. A renewal request includes a request for renewal and any additional information the NRTL wishes to submit to demonstrate its continued compliance with the terms of its recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL's headquarters and key sites within the past 18 to 24 months, it will schedule the necessary on-site assessments prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces its preliminary decision to grant or deny renewal in the **Federal Register** and solicit comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

CSA initially received OSHA recognition as an NRTL on December 24, 1992 (57 FR 61452). CSA's most recent renewal was on July 3, 2001, for a five-year period ending on July 3, 2006. CSA submitted a timely request for renewal, dated October 3, 2005 (see Ex. OSHA–2006–0042–0002), and retains its recognition pending OSHA's final decision in this renewal process. The current addresses of CSA facilities recognized by OSHA and included as part of the renewal request are:

1. CSA Toronto, 178 Rexdale Boulevard, Etobicoke, Ontario, Canada M9W 1R3;
2. CSA International Montreal, 865 Ellingham Street, Pointe-Claire, Quebec, Canada H9R 5E8;
3. CSA International Irvine, 2805 Barranca Parkway, Irvine, California 92606;
4. CSA International Edmonton, 1707–94th Street, Edmonton, Alberta, Canada T6N 1E6;
5. CSA International Vancouver, 13799 Commerce Parkway, Richmond, British Columbia, Canada V6V 2N9; and
6. CSA International Cleveland, 8501 East Pleasant Valley Road, Cleveland, Ohio, 44131.

II. Notice of Preliminary Findings

OSHA is providing notice that CSA is applying for renewal of its current recognition as an NRTL. This renewal covers CSA's existing NRTL scope of recognition. OSHA evaluated CSA's application for renewal and preliminarily determined that CSA can continue to meet the requirements prescribed by 29 CFR 1910.7 for recognition. Accordingly, OSHA is making a determination that it does not need to conduct an on-site review of CSA's facilities based on its evaluations of CSA's application and all other available information. This information includes OSHA's most recent audit of CSA's headquarters, CSA Toronto, conducted on March 24–25, 2011, in which the auditors found some non-conformances with the requirements of 29 CFR 1910.7. CSA addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA staff also performed an audit of the CSA Montreal site on March 21–22, 2011; of the CSA Edmonton site on September 23–24, 2009; and of the CSA Vancouver site on August 21–22, 2013. The auditors found some non-conformances with the requirements of 29 CFR 1910.7. CSA has addressed these issues sufficiently to meet the applicable NRTL requirements. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comment as to whether CSA meets the requirements of 29 CFR 1910.7 for renewal of their recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in CSA's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0042.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend whether to grant CSA's application for renewal. The Assistant Secretary will make the final decision on granting the application and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on February 19, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–03864 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0016]

Communication Certification Laboratory: Request for Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces Communication Certification Laboratory's (CCL) application containing a request for renewal of recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 11, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit a copy of comments and any attachments to the OSHA Docket Office, Docket No. OSHA–2013–0016, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TDY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2013–0016). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be available online at *http://www.regulations.gov*.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before March 11, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, phone (202) 693–2110, or email at *johnson.david.w@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification. OSHA maintains an informational Web site for each NRTL that details its scope of recognition. These pages are available on our Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

The Agency processes applications by an NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, App. II.C. In accordance with these procedures, NRTLs submit a renewal request to OSHA, not less than nine months, or no more than one year, before the expiration date of its current recognition. A renewal request includes a request for renewal and any additional information the NRTL wishes to submit to demonstrate its continued compliance with the terms of its recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL's headquarters and key sites within the past 18 to 24 months, it will schedule the necessary on-site assessments prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces its preliminary decision to grant or deny renewal in the **Federal Register** and solicit comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

CCL initially received OSHA recognition as an NRTL on June 21, 1991 (56 FR 28579). CCL's most recent renewal was on June 10, 2005 for a five-year period expiring on June 10, 2010. CCL submitted a timely request for renewal, dated September 1, 2009 (see Ex. OSHA–2013–0016–0003), and retains its recognition pending OSHA's final decision in this renewal process. The current addresses of the CCL facility recognized by OSHA and included as part of the renewal request is CCL, 1940 West Alexander Street, Salt Lake City, Utah 84119.

II. Notice of Preliminary Findings

OSHA is providing notice that CCL is applying for renewal of its current recognition as a NRTL. This renewal covers CCL's existing NRTL scope of

recognition. CCL submitted an acceptable application for renewal of its recognition as an NRTL on September 1, 2009. OSHA evaluated CCL's application for renewal and preliminarily determined that CCL can continue to meet the requirements prescribed by 29 CFR 1910.7 for recognition. Accordingly, OSHA is making a determination that it does not need to conduct an on-site review of CCL's facilities based on its evaluations of CCL's application and all other available information. This information includes OSHA's most recent audit of CCL's facility conducted on June 17–18, 2013, in which the auditors found some non-conformances with the requirements of 29 CFR 1910.7. CCL addressed these issues sufficiently to meet the applicable NRTL requirements. This preliminary finding does not constitute an interim or temporary approval of the application for renewal.

OSHA welcomes public comment as to whether CCL meets the requirements of 29 CFR 1910.7 for renewal of their recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in CCL's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2013–0016.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend whether to grant CCL's application for renewal. The Assistant Secretary will make the final decision on granting the application and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on February 19, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–03865 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0039]

Intertek Testing Services NA, Inc.: Request for Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the Intertek Testing Services NA, Inc. (ITSNA), application containing a request for renewal of recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 11, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit a copy of comments and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0039, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TDY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0039). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be available online at *http://www.regulations.gov.*

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before March 11, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, phone (202) 693–2110, or email at *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of

recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification. OSHA maintains an informational Web site for each NRTL that details its scope of recognition available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

The Agency processes applications by an NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, App. II.C. In accordance with these procedures, NRTLs submit a renewal request to OSHA, not less than nine months or no more than one year, before the expiration date of its current recognition. A renewal request includes a request for renewal and any additional information the NRTL wishes to submit to demonstrate its continued compliance with the terms of its recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL's headquarters and key sites within the past 18 to 24 months, it will schedule the necessary on-site assessments prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces its preliminary decision to grant or deny renewal in the **Federal Register** and solicit comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

ITSNA initially received OSHA recognition as an NRTL on September 13, 1989 (54 FR 37845). ITSNA's most recent renewal was on May 29, 2001, for a five-year period, expiring on May 29, 2006. ITSNA submitted a timely request for renewal, dated August 25, 2005 (see Ex. OSHA–2007–0039–0011), and retains its recognition pending OSHA's final decision in this renewal process. The current addresses of ITSNA facilities recognized by OSHA and included as part of the renewal request are:

1. ITSNA Cortland, 3933 U.S. Route 11, Cortland, New York 13045;
2. ITSNA Atlanta, 1950 Evergreen Boulevard, Duluth, Georgia 30096;
3. ITSNA Boxborough, 70 Codman Hill Road, Boxborough, Massachusetts 01719;
4. ITSNA Lexington, 731 Enterprise Drive, Lexington, Kentucky 40510;
5. ITSNA San Francisco, 1365 Adams Court, Menlo Park, California 94025;
6. ITSNA Los Angeles, 25791 Commercentre Drive, Lake Forest, California 92630;
7. ITSNA Minneapolis, 7250 Hudson Boulevard, Suite 100, Oakdale, Minnesota 55128;
8. ITSNA Madison, 8431 Murphy Drive, Middleton, Wisconsin 53562;
9. ITSNA SEMKO, Box 1103, S–164 #22, Kista, Stockholm, Sweden;
10. ITSNA Chicago, 545 East Algonquin Road, Suite F, Arlington Heights, Illinois 60005;
11. ITSNA Hong Kong, 2/F., Garment Centre, 576 Castle Peak Road, Kowloon, Hong Kong;
12. ITSNA Vancouver, 1500 Brigantine Drive, Coquitlam, British Columbia, Canada V3K 7C1;
13. ITSNA Fairfield, 41 Plymouth Street, Fairfield New Jersey 07004; and
14. ITSNA Dallas, 1809 10th Street, Suite 400, Plano, Texas 75074.

II. Notice of Preliminary Findings

OSHA is providing notice that ITSNA is applying for renewal of its current recognition as a NRTL. This renewal covers ITSNA's existing NRTL scope of recognition. OSHA evaluated ITSNA's application for renewal and preliminarily determined that ITSNA can continue to meet the requirements prescribed by 29 CFR 1910.7 for recognition. Accordingly, OSHA is making a determination that it does not need to conduct an on-site review of ITSNA's facilities based on its evaluations of ITSNA's application and all other available information. This information includes OSHA's most recent audit of ITSNA's headquarters, ITSNA Cortland, on June 20–22, 2012, in which the auditors found some non-conformances with the requirements of 29 CFR 1910.7. ITSNA addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA also performed audits of the ITSNA Cortland site on August 25–27, 2009 and June 18–19, 2008; of the ITSNA Atlanta site on March 12–13, 2008; of the ITSNA Boxborough site on March 21–22, 2013; of the ITSNA San Francisco site on April 23–24, 2012; of the ITSNA Hong Kong site on August 19–21, 2013; of the ITSNA Vancouver site on October 16–17, 2008; and of the ITSNA Dallas site on March 1–2, 2013. The auditors found some non-conformances with the requirements of 29 CFR 1910.7. ITSNA addressed these issues sufficiently to meet the applicable NRTL requirements. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comment as to whether ITSNA meets the requirements of 29 CFR 1910.7 for renewal of their recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in ITSNA's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0039.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend whether to grant ITSNA's application for renewal. The Assistant Secretary will make the final decision on granting the application and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on February 19, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–03867 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Request for Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the TUV Rheinland of North America, Inc. (TUVRNA), application containing a request for renewal of recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 11, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit a copy of comments and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0042, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TDY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0042). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be available online at *http://www.regulations.gov.*

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before March 11, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, phone (202) 693–2110, or email at *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification. OSHA maintains an informational Web site for each NRTL that details its scope of recognition available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

The Agency processes applications by an NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, App. II.C. In accordance with these procedures, NRTLs submit a renewal request to OSHA, not less than nine months, or no more than one year, before the expiration date of its current recognition. A renewal request includes a request for renewal and any additional information the NRTL wishes to submit to demonstrate its continued compliance with the terms of its recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL's headquarters and key sites within the past 18 to 24 months, it will schedule the necessary on-site assessments prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces its preliminary decision to grant or deny renewal in the **Federal Register** and solicit comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

TUVRNA initially received OSHA recognition as an NRTL on August 16, 1995 (60 FR 42594). TUVRNA's most recent renewal was on March 18, 2002, for a five-year period, expiring on March 19, 2007. TUVRNA submitted a timely request for renewal, dated June 12, 2006 (see Ex. OSHA–2007–0042–0004), and retains its recognition pending OSHA's final decision in this renewal process. The current addresses of TUVRNA facilities recognized by OSHA and included as part of the renewal request are:

1. TUVRNA Newtown, 12 Commerce Road, Newtown, Connecticut 06470; and
2. TUVRNA Austin, 2324 Ridgepoint Drive, Suite E, Austin, Texas 78754.

II. Notice of Preliminary Findings

OSHA is providing notice that TUVRNA is applying for renewal of its current recognition as an NRTL. This renewal covers TUVRNA's existing NRTL scope of recognition. OSHA evaluated TUVRNA's application for renewal and preliminarily determined that TUVRNA can continue to meet the requirements prescribed by 29 CFR 1910.7 for recognition. Accordingly, OSHA is making a determination that it does not need to conduct an on-site review of TUVRNA's facilities based on its evaluations of TUVRNA's application and all other available information. This information includes OSHA's most recent audit of TUVRNA's headquarters, TUVRNA Newtown, on July 25–26, 2013, in which the auditors found some non-conformances with the requirements of 29 CFR 1910.7. TUVRNA addressed these issues

sufficiently to meet the applicable NRTL requirements.

OSHA staff also performed an audit of the TUVRNA Austin site on August 23–25, 2010. The auditors found some non-conformances with the requirements of 29 CFR 1910.7. TUVRNA addressed these issues sufficiently to meet the applicable NRTL requirements. This preliminary finding does not constitute an interim or temporary approval of the application for renewal.

OSHA welcomes public comment as to whether TUVRNA meets the requirements of 29 CFR 1910.7 for renewal of their recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in TUVRNA's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0042.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend whether to grant TUVRNA's application for renewal. The Assistant Secretary will make the final decision on granting the application and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on February 19, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–03868 Filed 2–21–14; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (1755).

Dates: April 2, 2014, 8:30 a.m.–5:00 p.m.; April 3, 2014, 8:30 a.m.–1:30 p.m.

Place: Stafford I, Room 375, National Science Foundation, 4201Wilson Blvd. Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Suite 705, 4201 Wilson Blvd., Arlington, Virginia 22230. Phone 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight on support for geoscience research and education including atmospheric, geo-space, earth, ocean and polar sciences.

Agenda:

Wednesday, April 2, 2014 8:30 a.m.–5:00 p.m.

- Meeting with the Acting Director
- Directorate and NSF activities and plans
- Topical subcommittees on education/diversity, facilities, research and cyber-infrastructure

Thursday, April 3, 2014 8:30 a.m.–1:30 p.m.

- Division Subcommittee meetings
- Topical subcommittees on education/diversity, facilities, research and cyber-infrastructure, continued.
- Action Items/Planning for Fall Meeting

Dated: February 18, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2014–03759 Filed 2–21–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Biological Sciences Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L., 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Biological Sciences Advisory Committee (#1110).

Date and Time: March 13, 2014 8:30 a.m.—5:00 p.m., March 14, 2014 8:30 a.m.—2:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230.

All visitors must contact the Directorate for Biological Sciences [call 703–292–8400 or send an email message to *erchiang@nsf.gov*] at least 24 hours prior to the meeting to arrange for a visitor's badge. All visitors must report to the NSF visitor desk located in the lobby at the N. 9th and N. Stuart Streets entrance on the day of the meeting to receive a visitor's badge.

Type of Meeting: Open.

Contact Person: Charles Liarakos, National Science Foundation, 4201 Wilson Boulevard, Room 605, Arlington, VA 22230, Tel No.: (703) 292–8400.

Purpose of Meeting: The Advisory Committee for the Directorate for Biological Sciences provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Agenda items will include the Emerging Frontiers Committee of Visitors report, NEON and macrosystems biology, Cognitive Science & Neuroscience and the BRAIN, biological data, and other matters relevant to the Directorate for Biological Sciences.

Dated: February 18, 2014.

Suzanne Plimpton,

Acting Committee Management Officer.

[FR Doc. 2014–03760 Filed 2–21–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (25150).

Date and Time: April 2, 2014 9:00 a.m.–5:30 p.m., April 3, 2014 8:30 a.m.–1:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 1235.

Type of Meeting: Open.

Contact Person: David Proctor, CISE, Division of Advanced Cyberinfrastructure National Science Foundation, 4201 Wilson Blvd., Suite 1145, Arlington, VA 22230, Telephone: 703–292–8970.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities in the ACI community. To provide advice to the Director/NSF on issues related to long-range planning.

Agenda: Updates on NSF wide ACI activities.

Dated: February 18, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2014–03758 Filed 2–21–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483; NRC–2012–0001]

License Renewal Application for Callaway Plant, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft supplemental generic environmental impact statement; issuance, public meeting, and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft, plant-specific, Supplement 51 to the Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants, NUREG–1437, regarding the renewal of operating license NPF–30 for an additional 20 years of operation for Callaway Plant, Unit 1 (Callaway). Callaway is located in Callaway County, Missouri. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC staff plans to hold two public meetings during the public comment period to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document.

DATES: Submit comments by April 10, 2014. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0001. 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.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Office of Administration, Mail Stop: 3WFN–06–44M, 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: Carmen Fells, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6337 or by email at *Carmen.Fells@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0001 when contacting the NRC about the availability of information regarding this document. You may access 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–2012–0001.
- *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 reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The draft plant-specific Supplement 51 to the GEIS for License Renewal of Nuclear Plants, NUREG–1437, is available in ADAMS under Accession No. ML14041A373.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0001 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 you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

The NRC is issuing for public comment a draft plant-specific Supplement 51 to the GEIS for License Renewal of Nuclear Plants, NUREG–1437, regarding the renewal of operating license NPF–30 for an additional 20 years of operation for Callaway. Supplement 51 to the GEIS includes the preliminary analysis that evaluates the environmental impacts of the proposed action and alternatives to the proposed action. The NRC's preliminary recommendation is that the adverse environmental impacts of license renewal for Callaway are not great enough to deny the option of license renewal for energy planning decision makers.

III. Public Meetings

The NRC staff will hold public meetings prior to the close of the public comment period to present an overview of the draft plant-specific supplement to the GEIS and to accept public comment on the document. Two meetings will be held at the Fulton City Hall, 18 East 4th Street, Fulton, Missouri 65251 on Wednesday, March 19, 2014. The first session will convene at 2:00 p.m. and will continue until 3:30 p.m., as necessary. The second session will convene at 7:00 p.m. and will continue until 8:30 p.m., as necessary. The meetings will be transcribed and will include: (1) A presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) The opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host

informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Ms. Carmen Fells, the NRC Environmental Project Manager, at 1–800–368–5642, extension 6337, or by email at *Carmen.Fells@nrc.gov* no later than Monday, March 10, 2014. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Ms. Fells' attention no later than Monday, March 10, 2014, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

Dated at Rockville, Maryland, this 12th day of February 2014.

For the Nuclear Regulatory Commission.

Brian D. Wittick,

Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–03845 Filed 2–21–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act; Meeting

DATE: Weeks of February 24, March 3, 10, 17, 24, 31, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 24, 2014

There are no meetings scheduled for the week of February 24, 2014.

Week of March 3, 2014—Tentative

Monday, March 3, 2014

1:30 p.m. Briefing on Human Reliability Program Activities and Analyses (Public Meeting); (Contact: Sean Peters, 301–251–7582)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov/.*

Tuesday, March 4, 2014

9:00 a.m. Briefing on Security Issues (Closed—Ex. 1)

1:30 p.m. Briefing on Security Issues (Closed—Ex. 1)

Friday, March 7, 2014

10:00 a.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting); (Contact: Ed Hackett, 301–415–7360)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov/.*

Week of March 10, 2014—Tentative

There are no meetings scheduled for the week of March 10, 2014.

Week of March 17, 2014—Tentative

Friday, March 21, 2014

1:00 p.m. Briefing on Waste Confidence Rulemaking (Public Meeting); (Contact: Andrew Imboden, 301–287–9220)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov/.*

Week of March 24, 2014—Tentative

There are no meetings scheduled for the week of March 24, 2014.

Week of March 31, 2014—Tentative

There are no meetings scheduled for the week of March 31, 2014.

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: 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: February 20, 2014.

Rochelle Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–04027 Filed 2–20–14; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0237, Information and Instructions on Your Reconsideration Rights, RI 38–47

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0237, Information and Instruction on Your Reconsideration Rights, RI 38–47. As required by the Paperwork Reduction Act of 1995 as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until April 25, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Retirement Services, Union Square Room 370, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler, or sent by email to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM'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 submissions of responses.

RI 38–47 outlines the procedures required to request reconsideration of an initial OPM decision about Civil Service or Federal Employees retirement, Federal or Retired Federal Employees Health Benefits requests to enroll or change enrollment or Federal Employees' Group Life Insurance coverage. This form lists the procedures and time periods required for requesting reconsideration.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Information and Instruction on Your Reconsideration Rights.

OMB: 3206–0237.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 3,100.

Estimated Time per Respondent: 45 minutes.

Total Burden Hours: 2325 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–03833 Filed 2–21–14; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0179, Disabled Dependent Questionnaire, RI 30–10

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0179, Disabled Dependent Questionnaire. As required by the Paperwork Reduction Act of 1995 as amended by the Clinger-Cohen Act), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until April 25, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Retirement Services, Union Square Room 370, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler, or sent by email to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM'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 submissions of responses.

RI 30–10 is used to collect sufficient information about the medical condition and earning capacity for the Office of Personnel Management to be able to determine whether a disabled adult child is eligible for health benefits coverage and/or survivor annuity payments under the Civil Service Retirement System or the Federal Employees Retirement System.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Disabled Dependent Questionnaire.

OMB Number: 3206–0179.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 2,500.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 2,500.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–03834 Filed 2–21–14; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0162, Report of Medical Examination of Person Electing Survivor Benefits Under the Civil Service Retirement System, OPM 1530

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0162, Report of Medical Examination of Person Electing Survivor Benefits Under the Civil Service Retirement System, OPM 1530. As required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until March 26, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The information collection was previously published in the **Federal Register** on September 9, 2013 at Volume 78 FR 55122 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM'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 submissions of responses.

OPM Form 1530 is used to collect information regarding an annuitant's health so that OPM can determine whether the insurable interest survivor benefit election can be allowed.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Report of Medical Examination of Person Electing Survivor Benefits Under the Civil Service Retirement System.

OMB: 3206–0162.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 500.

Estimated Time per Respondent: 1 hour 30 minutes.

Total Burden Hours: 750.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–03823 Filed 2–21–14; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0206, Evidence To Prove Dependency of a Child, RI 25–37

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0206, Evidence to Prove Dependency of a Child, RI 25–37. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until April 25, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Retirement Services, Union Square Room 370, 1900 E Street, NW., Washington, DC 20415–3500, Attention: Alberta Butler, or sent by email to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION:

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM'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 submissions of responses.

RI 25–37 is designed to collect sufficient information for the Office of Personnel Management to determine whether the surviving child of a deceased federal employee is eligible to receive benefits as a dependent child.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Evidence to Prove Dependency of a Child.

OMB Number: 3206–0206.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 250.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 250.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–03826 Filed 2–21–14; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0144, We Need the Social Security Number of the Person Named Below, RI 38–45

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0144, We Need the Social Security Number of the Person Named Below, RI 38–45. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until April 25, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Retirement Services, Union Square Room 370, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler or sent by email to *Alberta.Butler@opm.gov*.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have Practical utility;
2. Evaluate the accuracy of OPM'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 submissions of responses.

RI 38–45 is used by the Civil Service Retirement System and the Federal Employees Retirement System to identify the records of individuals with similar or the same names. It is also needed to report payments to the Internal Revenue Service.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: We Need the Social Security Number of the Person Named Below.

OMB Number: 3206–0144.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: 3,000.

Estimated Time per Respondent: 5 minutes.

Total Burden Hours: 250.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–03832 Filed 2–21–14; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket No. R2014–5; Order No. 1988]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning modification of a bilateral agreement with Singapore Post Limited. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 25, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Brian Corcoran, Acting General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On February 12, 2014, the Postal Service filed Notice, pursuant to 39 CFR 3010.40 *et seq.*, that it has entered into a modification of a bilateral agreement for inbound market dominant services with Singapore Post Limited (2014 Agreement).[1] The Postal Service seeks to have the 2014 Agreement included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (Foreign Postal Operators 1) product on grounds of functional equivalence to the Singapore Post Agreements filed in predecessor dockets.[2] *Id.* at 2.

II. Contents of Filing

Compliance with filing requirements. The Postal Service's filing, which consists of the Notice, five attachments, and supporting financial workpapers, addresses compliance with 39 U.S.C. 3622 and 39 CFR 3010.40. Attachment 1 is the Application of the United States Postal Service for Non-Public Treatment of Materials.[3] *Id.* at 9. Attachment 2 is a copy of Modification Four. *Id.* at 3. Attachment 3 is a redacted copy of the Singapore Post Agreement filed in Docket No. R2012–1. *Id.* Attachment 4 is a copy of Modification Two (filed in Docket No. R2013–5). *Id.* Attachment 5 is a redacted copy of Modification Three (filed in Docket No. R2013–8). *Id.* A redacted version of the financial workpapers appears in a separate public Excel file. *Id.*

The Postal Service states that the intended effective date of the 2014 Agreement is April 1, 2014; asserts that it is providing 45 days advance notice as required under 39 CFR 3010.41; and identifies a Postal Service official as a contact for further information. *Id.* at 4. The Postal Service identifies the parties to the 2014 Agreement as the United States Postal Service and Singapore Post Limited, the postal operator for Singapore. *Id.* It states that the 2014 Agreement includes negotiated pricing for inbound small packets with delivery scanning. *Id.*

The Postal Service asserts that other than extending the term and adding a sentence to Annex 2, Modification Four does not materially change the terms of the Singapore Post Agreement.[4] Notice at 5. The Postal Service therefore refers the Commission to the notice filed in Docket No. R2012–1 for a discussion of details regarding actions to assure that the Singapore Post 2014 Agreement will not result in unreasonable harm to the marketplace. *Id.*

Reporting requirements. In lieu of the detailed data collection plan required by rule 3010.43, the Postal Service proposes to report information on the

[1] Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, February 12, 2014 (collectively, Notice). The Notice identifies two changes (described in Part II of this Order), and refers to them as Modification Four.

[2] See Docket Nos. R2012–1, R2013–5, and R2013–8. In the latter two dockets, the Commission considered an agreement referred to as "2013 Agreement." The 2013 Agreement is currently in effect. It is scheduled to expire March 31, 2014.

[3] The material filed under seal consists of a copy of the Singapore Post Agreement filed in Docket No. R2012–1 (Notice, Attachment 1); Modification Three (Notice, Attachment 5); and supporting financial documentation. *Id.* at 3.

[4] The sentence reads: "The Exempt indicator in the PREDES message will reflect 'N'." Notice, Attachment 2 at 1. It is added to Annex 2, Small Packet with Delivery Scanning Requirements, at the end of section 3, Dispatch Manifesting, in the Dispatch Preparation Requirements section. *Id.*

2014 Agreement through the Annual Compliance Report. *Id.* at 6. The Postal Service also invokes, with respect to service performance measurement reporting under rule 3055.3(a)(3), the standing exception in Order No. 996 for all agreements filed in the Foreign Postal Operators 1 product grouping. *Id.*[5]

Consistency with applicable statutory criteria. The Postal Service states that under 39 U.S.C. 3622, the criteria for the Commission's review are whether the 2013 Agreement: (1) Improves the net financial position of the Postal Service or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. *Id.* at 7. The Postal Service states that Part I.A. of its Notice addresses the first two criteria. *Id.* With respect to the third criterion, the Postal Service asserts there are no entities similarly situated to Singapore Post Limited in their ability to tender broad-based Letter Post flows from Singapore under similar operational conditions, nor are there any other entities that serve as a designated operator for Letter Post originating in Singapore. *Id.*

Functional equivalence. The Postal Service posits that the 2014 Agreement is functionally equivalent to the Singapore Post Agreements previously included in the product grouping for Foreign Postal Operators 1 because it is very similar to 2013 Agreement (approved by the Commission in Docket No. R2013–8). *Id.* at 8. It states that the main difference is the addition of one sentence to Annex 2. *Id.* The Postal Service observes that the 2013 Agreement was found to be appropriately classified in the Foreign Postal Operators 1 product grouping because it met all applicable statutory and regulatory requirements. *Id.* It further states that the 2014 Agreement, like the 2013 Agreement, fits within the Mail Classification Language for the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1, so both therefore conform to a common description. *Id.* The Postal Service also states that the two agreements share a common market and have similar financial models for projection of costs and revenues. *Id.* The Postal Service therefore submits that the 2014 Agreement is functionally equivalent to its predecessor (the 2013 Agreement), and asserts the predecessor is a logical baseline for purposes of the functional equivalency comparison. *Id.* at 8–9. The Postal Service acknowledges the existence of two differences (the extension to March 31, 2015 and the additional sentence in Annex 2), but asserts that neither has an effect on the similarity of market characteristics or the similarity of cost differences. *Id.* at 9. The Postal Service therefore states that the differences do not detract from the conclusion that the 2014 Agreement is functionally equivalent to its predecessor agreement (the 2013 Agreement) in the Foreign Postal Operators 1 product grouping. *Id.*

Supplemental information. The sentence that is added in Annex 2 reads: "The Exempt indicator in the PREDES message will reflect 'N'." *Id.*, Attachment 2 at 1. The sentence immediately preceding the additional sentence refers to number of receptacles and number of individual pieces. *Id.* The Postal Service is directed to explain what the "N" in the new sentence refers to and to provide a brief explanation of PREDES. The Postal Service is also directed to address how the inclusion of the new sentence alters contractual obligations relative to the 2013 Agreement.

A response is due no later than February 24, 2014.

III. Commission Action

The Commission, in conformance with rule 3010.44, establishes Docket No. R2014–5 to consider issues raised by the Notice. The Commission invites comments from interested persons on whether the 2014 Agreement is consistent with 39 U.S.C. 3622 and the requirements of 39 CFR part 3040. Comments are due no later than February 25, 2014. The public portions of this filing can be accessed via the Commission's Web site (*http://www.prc.gov*). Information on how to obtain access to non-public material appears at 39 CFR 3007.40.

The Commission appoints Lyudmila Bzhilyanskaya to serve as Public Representative in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2014–5 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Lyudmila Bzhilyanskaya is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons in this proceeding are due no later than February 25, 2014.

4. The Postal Service is directed to provide the supplemental information requested in the body of this order no later than February 24, 2014.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–03827 Filed 2–21–14; 8:45 am]

BILLING CODE 7710–FW–P

[5] Docket No. R2012–2, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 23, 2011 (Order No. 996).

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–29; Order No. 1989]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Global Reseller Expedited Package Contracts 1 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 26, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Brian Corcoran, Acting General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Background. On February 14, 2014, the Postal Service filed a notice pursuant to 39 CFR 3015.5 announcing that it has entered into an additional Global Reseller Expedited Package Contracts 1 (GREPS 1) negotiated service agreement (Agreement).[1] The

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller

Continued

Agreement is the successor agreement to the contract previously approved in Docket No. CP2013–20.[2] The Postal Service seeks to have the Agreement included within the existing GREPS 1 product on grounds of functional equivalence to the baseline agreement filed in Docket No. CP2010–36.[3]

II. Contents of Filing

Agreement. The Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement approved in Docket No. CP2010–36. Notice at 3.

The Postal Service filed the following material in conjunction with its Notice, along with public (redacted) versions of supporting financial information:

- Attachment 1—a redacted copy of the Agreement;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 10–1; and
- Attachment 4—an application for non-public treatment of materials filed under seal.

Functional equivalency. The Postal Service asserts that the Agreement is substantially similar to the baseline agreement filed in Docket No. CP2010–36 because it shares similar cost and market characteristics and meets criteria in Governors' Decision No. 10–1 concerning attributable costs. *Id.* at 4. The Postal Service further asserts that the functional terms of the Agreement and the baseline agreement are the same and the benefits are comparable. *Id.* It states that prices offered under the Agreement may differ due to postage commitments and when the Agreement is signed (due to updated costing information), but asserts that these differences do not alter the functional equivalency of the Agreement and the baseline agreement. *Id.* at 5. The Postal Service also identifies differences between the terms of the two agreements, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.[4] *Id.* at 5–7.

Effective date; term. The contract previously approved in Docket No. CP2013–20 is set to expire February 28, 2014. *Id.* at 3. The intended effective date for the Agreement is March 1, 2014. *Id.* The Agreement will remain in effect for one calendar year, unless terminated sooner pursuant to contractual terms. *Id.,* Attachment 1 at 6.

III. Notice of Proceeding

The Commission establishes Docket No. CP2014–29 for consideration of matters raised by the Postal Service's Notice. Interested persons may submit comments on whether the Agreement is consistent with the requirements of 39 CFR 3015.5 and the policies of 39 U.S.C. 3632 and 3633. Comments are due no later than February 26, 2014. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov.* Information on how to obtain access to material filed under seal appears in 39 CFR 3007.40.

The Commission appoints James F. Callow to serve as Public Representative in the captioned proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–29 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than February 26, 2014.

3. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–03889 Filed 2–21–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–28; Order No. 1991]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of International Business Reply Service Competitive Contract 3 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 26, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Brian Corcoran, Acting General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On February 14, 2014, the Postal Service filed notice pursuant to 39 CFR 3015.5 announcing that it has entered into an additional International Business Reply Service Competitive Contract 3 (IBRS 3) negotiated service agreement (Agreement).[1] The Agreement is the successor agreement to the contract previously approved in Docket No. CP2013–50.[2] The Postal Service seeks to have the Agreement included within the existing IBRS 3 product on grounds of functional equivalence to the baseline agreement filed in Docket Nos. MC2011–21 and CP2011–59.[3]

II. Postal Service Filing

Background. The Postal Service filed its Notice, along with four attachments, pursuant to 39 CFR 3015.5. The attachments consist of:

- Attachment 1—a redacted version of the Agreement;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–24; and
- Attachment 4—an application for non-Public treatment of materials filed under seal.

Functional equivalency. The Postal Service asserts that the Agreement is

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Expedited Package 1 Negotiated Service Agreement, February 14, 2014 (Notice).

[2] *Id.* at 1. *See also* Docket No. CP2013–20, Order No. 1571, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, December 10, 2012.

[3] Notice at 3. *See also* Docket Nos. MC2010–21 and CP2010–36, Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, April 22, 2010 (based on Governors' Decision No. 10–1).

[4] Differences include a new "Whereas" paragraph, numerous revisions to existing Articles, and five new Articles. *Id.*

[1] Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 14, 2014 (Notice).

[2] Docket No. CP2013–50, Order No. 1668, Order Approving New International Business Reply Service Competitive Contract 3 Agreement, February 25, 2013.

[3] *Id.* at 3. *See also,* Docket Nos. MC2011–21 and CP2011–59, Order No. 684, Order Approving International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 28, 2011.

substantially similar to the baseline agreement filed in Docket Nos. MC2011–21 and CP2011–59 because it shares similar cost and market characteristics and meets criteria in Governors' Decision No. 08–24 concerning attributable costs. Notice at 4. The Postal Service further asserts that the functional terms of the Agreement and the baseline agreement are the same and the benefits are comparable. *Id.* It states that prices offered under the Agreement may differ due to volume or postage commitments and when the Agreement is signed (due to updated costing information), but asserts that these differences do not alter the functional equivalency of the Agreement and the baseline agreement. *Id.* at 5.

The Postal Service also identifies differences between the terms of the two agreements, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement. *Id.*

Effective date; term. The contract previously approved in Docket No. CP2013–50 is set to expire February 28, 2014 and the intended effective date for the Agreement is March 1, 2014. *Id.* at 3. The Agreement will remain in effect for two calendar years, unless terminated sooner pursuant to contractual terms. *Id.*, Attachment 1 at 4.

III. Commission Action

The Commission establishes Docket No. CP2014–28 for consideration of matters raised by the Postal Service's Notice. Interested persons may submit comments on whether the Agreement is consistent with the requirements of 39 CFR 3015.5 and the policies of 39 U.S.C. 3632 and 3633. Comments are due no later than February 26, 2014. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov*. Information on how to obtain access to material filed under seal appears in 39 CFR 3007.40.

The Commission appoints Curtis E. Kidd to serve as Public Representative in the captioned proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–28 for consideration of matters raised in the Postal Service Notice.

2. Comments by interested persons in this proceeding are due no later than February 26, 2014.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Curtis E. Kidd to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–03891 Filed 2–21–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–30; Order No. 1990]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Global Reseller Expedited Package Contracts 1 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 26, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Brian Corcoran, Acting General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

Background. On February 14, 2014, the Postal Service filed a notice pursuant to 39 CFR 3015.5 announcing that it has entered into an additional Global Reseller Expedited Package Contracts 1 (GREPS 1) negotiated service agreement (Agreement).[1] The Agreement is the successor agreement to the contract previously approved in Docket No. CP2011–1.[2] The Postal Service seeks to have the Agreement included within the existing GREPS 1 product on grounds of functional equivalence to the baseline agreement filed in Docket No. CP2010–36.[3]

II. Contents of Filing

Agreement. The Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement approved in Docket No. CP2010–36. Notice at 3.

The Postal Service filed the following material in conjunction with its Notice, along with public (redacted) versions of supporting financial information:

- Attachment 1—a redacted copy of the Agreement;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 10–1; and
- Attachment 4—an application for non-public treatment of materials filed under seal.

Functional equivalency. The Postal Service asserts that the Agreement is substantially similar to the baseline agreement filed in Docket No. CP2010–36 because it shares similar cost and market characteristics and meets criteria in Governors' Decision No. 10–1 concerning attributable costs. *Id.* at 4. The Postal Service further asserts that the functional terms of the Agreement and the baseline agreement are the same and the benefits are comparable. *Id.* It states that prices offered under the Agreement may differ due to postage commitments and when the Agreement is signed (due to updated costing information), but asserts that these differences do not alter the functional equivalency of the Agreement and the baseline agreement. *Id.* at 5. The Postal Service also identifies differences between the terms of the two agreements, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.[4] *Id.* at 5–7.

Effective date; term. The contract previously approved in Docket No. CP2011–1 is set to expire February 28, 2014. *Id.* at 3. The intended effective date for the Agreement is March 1, 2014.

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 1 Negotiated Service Agreement, February 14, 2014 (Notice).

[2] *Id.* at 1. *See also* Docket No. CP2011–1, Order No. 561, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, October 15, 2010.

[3] Notice at 3. *See also* Docket Nos. MC2010–21 and CP2010–36, Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, April 22, 2010 (based on Governors' Decision No. 10–1).

[4] Differences include a new "Whereas" paragraph, numerous revisions to existing Articles, and five new Articles. *Id.*

Id. The Agreement will remain in effect for one calendar year, unless terminated sooner pursuant to contractual terms. *Id.*, Attachment 1 at 6.

III. Notice of Proceeding

The Commission establishes Docket No. CP2014–30 for consideration of matters raised by the Postal Service's Notice. Interested persons may submit comments on whether the Agreement is consistent with the requirements of 39 CFR 3015.5 and the policies of 39 U.S.C. 3632 and 3633. Comments are due no later than February 26, 2014. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov.* Information on how to obtain access to material filed under seal appears in 39 CFR 3007.40.

The Commission appoints Kenneth F. Moeller to serve as Public Representative in the captioned proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–30 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than February 26, 2014.

3. Pursuant to 39 U.S.C. 505, Kenneth F. Moeller is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–03890 Filed 2–21–14; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Section 2 of the Railroad Retirement Act (RRA) provides for payment of annuities to qualified employees and their spouses. In order to receive an age and service annuity, Section 2(e)(3) states that an applicant must stop all railroad work and give up any rights to return to such work. However, applicants are not required to stop nonrailroad work or self-employment.

The RRB considers some work claimed as "self-employment" to actually be employment for an employer. Whether the RRB classifies a particular activity as self-employment or as work for an employer depends upon the circumstances of each case. These circumstances are prescribed in 20 CFR part 216.

Under the 1988 amendments to the RRA, an applicant is no longer required to stop work for a "Last Pre-Retirement Nonrailroad Employer" (LPE). However, Section 2(f)(6) of the RRA requires that a portion of the employee's Tier II benefit and supplemental annuity be deducted for earnings from the "LPE."

The "LPE" is defined as the last person, company, or institution with whom the employee or spouse applicant was employed concurrently with, or after, the applicant's last railroad employment and before their annuity beginning date. If a spouse never worked for a railroad, the LPE is the last person for whom he or she worked.

The RRB utilizes Form AA–4, *Self-Employment and Substantial Service Questionnaire,* to obtain information needed to determine if the work the applicant claims is self-employment is really self-employment or work for an LPE or railroad service. If the work is self-employment, the questionnaire identifies any month in which the applicant did not perform substantial service. One response is requested of each respondent. Completion is voluntary. However, failure to complete the form could result in the nonpayment of benefits.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (78 FR 76336 on December 17, 2013) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Self-Employment and Substantial Service Questionnaire.

OMB Control Number: 3220–0138.

Form(s) submitted: AA–4.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or households.

Abstract: Section 2 of the Railroad Retirement Act (RRA) provides for payment of annuities to qualified employees and their spouses. Work for a Last Pre-Retirement Nonrailroad Employer (LPE), and work in self-employment affect payment in different ways. This collection obtains information to determine whether claimed self-employment is really self-employment, and not work for a railroad or LPE.

Changes proposed: The RRB proposes no changes to Form AA–4.

The burden estimate for the ICR is as follows:

Form	Annual responses	Time (min)	Burden (hrs)
AA–4 (With assistance)	570	40	380
AA–4 (Without assistance)	30	70	35
Total	600		415

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2014–03872 Filed 2–21–14; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Form 144;
OMB Control No. 3235–0101, SEC File No. 270–112.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") this request for extension of the previously approved collections of information discussed below.

Form 144 (17 CFR 239.144) is used to report the sale of securities during any three-month period that exceeds 5,000 shares or other units and has an aggregate sales price that does not exceed $50,000. Under Sections 2(a)(11), 4(a)(1), 4(a)(2), 4(a)(4) and 19(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)(11), 77d(a)(1), 77d(a)(2), 77d(a)(4) and 77s(a)) and Rule 144 (17 CFR 230.144) there under, the Commission is authorized to solicit the information required to be supplied by Form 144. The objectives of the rule could not be met, if the information collection was not required. The information collected must be filed with the Commission and is publicly available. Form 144 takes approximately one burden hour per response and is filed by 500 respondents for a total of 500 total burden hours.

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 public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 18, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03787 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 15Ba2–6T; SEC File No. S7–19–10, OMB Control No. 3235–0659.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request of extension of the previously approved collection of information provided for in Rule 15Ba2–6T—Temporary Registration as a Municipal Advisor; Required Amendments; and Withdrawal from Temporary Registration (17 CFR 240.15Ba2–6T), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

Paragraph (a) of Rule 15Ba2–6T requires municipal advisors, as defined in Section 15B(e)(4) of the Exchange Act (15 U.S.C. 78*o*–4(e)(4)), to electronically file with the Commission on the Commission's Web site at the following link, *Municipal Advisor Registration*, the information set forth in Form MA–T (17 CFR 249.1300T) to temporarily register or withdraw from temporary registration.

Paragraph (b)(1) of Rule 15Ba2–6T requires municipal advisors to promptly amend their temporary registration whenever information concerning Items 1 (Identifying Information) or 3 (Disciplinary Information) of Form MA–T becomes inaccurate in any way.

Paragraph (b)(2) of Rule 15Ba2–6T requires municipal advisors to promptly amend their temporary registration whenever they wish to withdraw from registration.

Paragraph (c) of Rule 15Ba2–6T provides that every initial registration, amendment to registration, or withdrawal from registration filed pursuant to this rule constitutes a "report" within the meaning of applicable provisions of the Exchange Act.

Paragraph (d) of Rule 15Ba2–6T provides that every Form MA–T, including every amendment to or withdrawal from registration, is considered filed with the Commission when the electronic form on the Commission's Web site is completed and the Commission has sent confirmation to the municipal advisor that the form was filed.

Paragraph (e) of Rule 15Ba2–6T provides that all temporary registrations of municipal advisors will expire on the earlier of: (1) The date that the municipal advisor's permanent registration, submitted pursuant to the Exchange Act and the rules thereunder, is approved or disapproved by the Commission; (2) the date on which the municipal advisor's temporary registration is rescinded by the Commission; (3) for a municipal advisor that has not applied for permanent registration with the Commission in accordance with the Exchange Act and the rules thereunder, forty-five days after the compliance date of such rules for the municipal advisor; or (4) December 31, 2014.

Paragraph (f) of Rule 15Ba2–6T provides that Rule 15Ba2–6T will expire on December 31, 2014.

The primary purpose of Rule 15Ba2–6T is to provide information about municipal advisors to investors and issuers, as well as the Commission pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Commission staff estimates that approximately 100 new municipal advisors will file Form MA–T during the period January 1, 2014 through December 31, 2014. Commission staff estimates that each of the approximately 100 new municipal advisors will spend an average of 2.5 hours preparing each Form MA–T. Therefore the estimated total reporting burden associated with completing Form MA–T is 250 hours. Additionally, Commission staff estimates that approximately 1,150 municipal advisors currently registered with the Commission and the estimated

100 new municipal advisors will amend (or withdraw) their Form MA–T once during the period from January 1, 2014 through December 31, 2014, and that it will take approximately 30 minutes to amend (or withdraw) their form, which means the total burden associated with amending Form MA–T is 625 hours. Therefore, the total annual burden associated with completing and amending Form MA–T is 875 hours.

The Commission believes that some municipal advisors will seek outside counsel to help them comply with the requirements of Rule 15Ba2–6T and Form MA–T, and assumes that 100 municipal advisors will consult outside counsel for one hour for this purpose. The hourly rate for an attorney is $379, according to the Securities Industry and Financial Markets Association's publication titled Management & Professional Earnings in the Securities Industry 2012, as modified by Commission staff to account for an 1,800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. The Commission estimates the total cost for these 100 municipal advisors to hire outside counsel to review their compliance with the requirements of Rule 15Ba2–6T and Form MA–T to be approximately $37,900.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 18, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03784 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17a–13; SEC File No. 270–27, OMB Control No. 3235–0035.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 17a–13 (17 CFR 240.17a–13) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

Rule 17a–13(b) (17 CFR 240.17a–13(b)) generally requires that at least once each calendar quarter, all registered brokers-dealers physically examine and count all securities held, and that they account for all other securities not in their possession, but subject to the broker-dealer's control or direction. Any discrepancies between the broker-dealer's securities count and the firm's records must be noted and, within seven days, the unaccounted for difference must be recorded in the firm's records. Rule 17a–13(c) (17 CFR 240.17a–13(c)) provides that under specified conditions, the count, examination, and verification of the broker-dealer's entire list of securities may be conducted on a cyclical basis rather than on a certain date. Although Rule 17a–13 does not require broker-dealers to file a report with the Commission, discrepancies between a broker-dealer's records and the securities counts may be required to be reported, for example, as a loss on Form X–17a–5 (17 CFR 248.617), which must be filed with the Commission under Exchange Act Rule 17a–5 (17 CFR 240.17a–5). Rule 17a–13 exempts broker-dealers that limit their business to the sale and redemption of securities of registered investment companies and interests or participation in an insurance company separate account and those who solicit accounts for federally insured savings and loan associations, provided that such persons promptly transmit all funds and securities and hold no customer funds and securities. Rule 17a–13 also does not apply to certain broker-dealers required to register only because they effect transactions in securities futures products.

The information obtained from Rule 17a–13 is used as an inventory control device to monitor a broker-dealer's ability to account for all securities held in transfer, in transit, pledged, loaned, borrowed, deposited, or otherwise subject to the firm's control or direction. Discrepancies between the securities counts and the broker-dealer's records alert the Commission and the self-regulatory organizations ("SROs") to those firms experiencing back-office operational issues.

Currently, there are approximately 4,462 broker-dealers registered with the Commission. However, given the variability in their businesses, it is difficult to quantify how many hours per year each broker-dealer spends complying with Rule 17a–13. As noted, Rule 17a–13 requires a broker-dealer to account for all securities in its possession or subject to its control or direction. Many broker-dealers hold few, if any, securities; while others hold large quantities. Therefore, the time burden of complying with Rule 17a–13 will depend on respondent-specific factors, including a broker-dealer's size, number of customers, and proprietary trading activity. The staff estimates that the average time spent per respondent is 100 hours per year on an ongoing basis to maintain the records required under Rule 17a–13. This estimate takes into account the fact that more than half of the 4,462 respondents—according to financial reports filed with the Commission—may spend little or no time complying with Rule 17a–13, given that they do not do a public securities business or do not hold inventories of securities. For these reasons, the staff estimates that the total compliance burden per year is 446,200 hours (4,462 respondents × 100 hours/respondent).

The records required to be made by Rule 17a–13 are available only to Commission examination staff, state securities authorities, and applicable SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 18, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03785 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30919; 812–14160]

RiverNorth Funds, et al.; Notice of Application

February 18, 2014.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "1940 Act") for exemptions from sections 12(d)(1)(A), (B), and (C) of the 1940 Act, and under sections 6(c) and 17(b) of the 1940 Act for an exemption from section 17(a) of the 1940 Act.

SUMMARY: Summary of the Application: Applicants request an order that would permit certain registered open-end management investment companies that operate as "funds of funds" to acquire shares of certain registered open-end management investment companies, registered closed-end management investment companies, "business development companies," as defined by section 2(a)(48) of the 1940 Act, and registered unit investment trusts that are within or outside the same group of investment companies as the acquiring investment companies.

Applicants: RiverNorth Funds (the "Trust"), RiverNorth Capital Management, LLC (the "Adviser"), and ALPS Distributors, Inc. (the "Distributor").

DATES: *Filing Dates:* The application was filed on May 29, 2013, and amended on October 8, 2013, and January 21, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 17, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: the Adviser, 325 N. LaSalle Street, Suite 645, Chicago, Illinois 60654.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the "Company" name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as an Ohio business trust and is registered under the 1940 Act as an open-end management investment company. The Trust currently offers five separate series. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and serves as investment adviser to each of the existing series of the Trust.[1] The Distributor is a Broker (as defined below) and currently serves as the principal underwriter and distributor of the Funds (as defined below).[2]

2. Applicants request relief to the extent necessary to permit: (a) A Fund (each, a "Fund of Funds," and collectively, the "Funds of Funds") to acquire shares of registered open-end management investment companies (each an "Unaffiliated Open-End Investment Company"), registered closed-end management investment companies, "business development companies" as defined by section 2(a)(48) of the 1940 Act ("business development companies") (each registered closed-end management investment company and each business development company, an "Unaffiliated Closed-End Investment Company" and, together with the Unaffiliated Open-End Investment Companies, the "Unaffiliated Investment Companies"), and registered unit investment trusts ("UITs") (the "Unaffiliated Trusts," and together with the Unaffiliated Investment Companies, the "Unaffiliated Funds"), in each case, that are not part of the same "group of investment companies" as the Funds of Funds;[3] (b) the Unaffiliated Funds, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 (the "1934 Act") ("Broker") to sell shares of such Unaffiliated Funds to the Funds of Funds; (c) the Funds of Funds to acquire shares of other registered investment companies, including open-end management investment companies and series thereof, closed-end management investment companies and UITs, as well as business development companies (if any), in the same group of investment companies as the Funds of Funds (collectively, the "Affiliated Funds," and, together with the Unaffiliated

[1] All references to the term "Adviser" include successors-in-interest to the Adviser. A successor-in-interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Applicants request that the order also extend to any future series of the Trust, and any other existing or future registered open-end management investment companies and any series thereof that are part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of 1940 Act, as the Trust, in each case, that is, or may in the future be, advised by the Adviser or any other investment adviser controlling, controlled by, or under common control with the Adviser (together with the existing series of the Trust, each series a "Fund," and collectively, the "Funds"). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[3] For purposes of the request for relief from Sections 12(d)(1)(A), (B), and (C) of the 1940 Act, the term "group of investment companies" means any two or more registered investment companies, including closed-end investment companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

Funds, the "Underlying Funds");[4] and (d) the Affiliated Funds, their principal underwriters and any Broker to sell shares of the Affiliated Funds to the Funds of Funds.[5] Applicants also request an order under sections 6(c) and 17(b) of the 1940 Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds organized as open-end investment companies ("Underlying Open-End Funds") to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.[6]

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the 1940 Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the 1940 Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(C) prohibits an investment company from acquiring any security issued by a registered closed-end investment company if such acquisition would result in the acquiring company, any other investment companies having the same investment adviser, and companies controlled by such investment companies, collectively, owning more than 10% of the outstanding voting stock of the registered closed-end investment company.

2. Section 12(d)(1)(J) of the 1940 Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption under section 12(d)(1)(J) of the 1940 Act from the limitations of sections 12(d)(1)(A), (B) and (C) to the extent necessary to permit: (i) The Funds of Funds to acquire shares of Underlying Funds in excess of the limits set forth in section 12(d)(1)(A) and (C) of the 1940 Act; and (ii) the Underlying Funds, their principal underwriters and any Broker to sell shares of the Underlying Funds to the Funds of Funds in excess of the limits set forth in section 12(d)(1)(B) of the 1940 Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A), (B), and (C), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants submit that the proposed structure will not result in the exercise of undue influence by a Fund of Funds or its affiliated persons over the Underlying Funds. Applicants assert that the concern about undue influence does not arise in connection with a Fund of Funds' investment in the Affiliated Funds because they are part of the same group of investment companies. To limit the control a Fund of Funds or Fund of Funds Affiliate[7] may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser and any person controlling, controlled by or under common control with the Adviser, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the 1940 Act advised or sponsored by the Adviser or any person controlling, controlled by or under common control with the Adviser (collectively, the "Group") from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the 1940 Act to a Fund of Funds ("Sub-Adviser") and any person controlling, controlled by or under common control with the Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act (or portion of such investment company or issuer) advised or sponsored by the Sub-Adviser or any person controlling, controlled by or under common control with the Sub-Adviser (collectively, the "Sub-Adviser Group").

5. With respect to closed-end underlying funds, applicants submit that one significant difference from open-end underlying funds is that, whereas open-end underlying funds may be unduly influenced by the threat of large-scale redemptions, closed-end underlying funds cannot be so influenced because they do not issue redeemable securities and, therefore, are not subject to large-scale redemptions. On the other hand, applicants state that closed-end underlying funds may be unduly influenced by a holder's ability to vote a large block of stock. To address this concern, applicants submit that, with respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment

[4] Certain of the Underlying Funds may be registered under the 1940 Act as either UITs or open-end management investment companies and have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (collectively, "ETFs" and each, an "ETF"). In addition, certain of the Underlying Funds currently pursue, or may in the future pursue, their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the 1940 Act. In accordance with condition 12, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same "group of investment companies" as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same "group of investment companies" as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

[5] Applicants state that they do not believe that investments in business development companies present any particular considerations or concerns that may be different from those presented by investments in registered closed-end investment companies.

[6] Applicants note that a Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

[7] A "Fund of Funds Affiliate" is the Adviser, any Sub-Adviser, promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by or under common control with any of those entities. An "Unaffiliated Fund Affiliate" is an investment adviser(s), sponsor, promoter or principal underwriter of any Unaffiliated Fund or any person controlling, controlled by or under common control with any of those entities.

Company's shares. Applicants state that, in this way, an Unaffiliated Closed-End Investment Company will be protected from undue influence by a Fund of Funds through the voting of the Unaffiliated Closed-End Investment Company's shares.

6. Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting").[8]

7. To further ensure that an Unaffiliated Investment Company understands the implications of a Fund of Funds' investment under the requested exemptive relief, prior to its investment in the shares of an Unaffiliated Investment Company in excess of the limit of section 12(d)(1)(A)(i) of the 1940 Act, a Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that each of their boards of directors or trustees (each, a "Board") and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (the "Participation Agreement"). Applicants note that an Unaffiliated Investment Company (including an ETF or an Unaffiliated Closed-End Investment Company) would also retain its right to reject any initial investment by a Fund of Funds in excess of the limits in section 12(d)(1)(A)(i) of the 1940 Act by declining to execute the Participation Agreement with the Fund of Funds. In addition, an Unaffiliated Investment Company (other than an ETF or closed-end fund whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds. Finally, subject solely to the giving of notice to a Fund of Funds and the passage of a reasonable notice period, an Unaffiliated Fund (including a closed-end fund) could terminate a Participation Agreement with the Fund of Funds.

8. Applicants state that they do not believe that the proposed arrangement will result in excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not "interested persons" within the meaning of section 2(a)(19) of the 1940 Act (the "Independent Directors"), will find that the management or advisory fees charged under a Fund of Funds' advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the 1940 Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or an affiliated person of the Adviser by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund.. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in Rule 2830 of the Conduct Rules of the NASD ("NASD Conduct Rule 2830").[9]

9. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the 1940 Act in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except in certain circumstances identified in condition 12 below.

B. Section 17(a)

1. Section 17(a) of the 1940 Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the 1940 Act defines an "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Funds may be deemed to be under the common control of the Adviser and, therefore, affiliated persons of one another. Applicants also state that the Funds of Funds and the Underlying Open-End Funds may also be deemed to be affiliated persons of one another if a Fund of Funds owns 5% or more of the outstanding voting securities of one or more of such Underlying Open-End Funds. Applicants state that the sale of shares by the Underlying Open-End Funds to the Funds of Funds and the purchase of those shares from the Funds of Funds by the Underlying Open-End Funds (through redemptions) could be deemed to violate section 17(a).[10]

3. Section 17(b) of the 1940 Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (i) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policies of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the 1940 Act. Section 6(c) of the 1940 Act permits the Commission to exempt any person or transactions from any provision of the 1940 Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the 1940 Act. Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Open-End Fund will sell its shares to or purchase its shares from a

[8] An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, sub-adviser or employee of the Fund of Funds, or a person of which any such officer, director, trustee, investment adviser, sub-adviser, member of an advisory board or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the 1940 Act.

[9] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct 2830.

[10] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the 1940 Act. The Participation Agreement also will include this acknowledgement.

Fund of Funds will be based on the net asset value of each Underlying Open-End Fund.[11] Applicants also state that the proposed transactions will be consistent with the policies of each Fund of Funds and Underlying Open-End Fund, and with the general purposes of the 1940 Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The members of a Sub-Adviser Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. With respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. If, as a result of a decrease in the outstanding voting securities of any other Unaffiliated Fund, the Group or a Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of such Unaffiliated Fund, then the Group or the Sub-Adviser Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Sub-Adviser Group with respect to an Unaffiliated Fund for which the Sub-Adviser or a person controlling, controlled by or under common control with the Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the 1940 Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Directors, will adopt procedures reasonably designed to ensure that its Adviser and any Sub-Adviser to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Investment Company or Unaffiliated Trust or any Unaffiliated Fund Affiliate of such Unaffiliated Investment Company or Unaffiliated Trust in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Directors, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Directors, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company will maintain and preserve permanently, in an easily accessible place, a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated

[11] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the 1940 Act, of an ETF to purchase or redeem shares from the ETF. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. Applicants note that a Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, setting forth (1) the party from whom the securities were acquired, (2) the identity of the underwriting syndicate's members, (3) the terms of the purchase, and (4) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the 1940 Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the 1940 Act, the Board of each Fund of Funds, including a majority of the Independent Directors, shall find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company pursuant to rule 12b–1 under the 1940 Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Sub-Adviser will waive fees otherwise payable to the Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Sub-Adviser, or an affiliated person of the Sub-Adviser, from an Unaffiliated Fund, other than any advisory fees paid to the Sub-Adviser or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Sub-Adviser. In the event that the Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the 1940 Act, in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the 1940 Act and either is an Affiliated Fund or is in the same "group of investment companies" as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the 1940 Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes or (ii) engage in inter-fund borrowing and lending transactions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03796 Filed 2–21–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71556; File No. SR–CBOE–2013–113]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Withdrawal of Proposed Rule Change Relating to Multi-Class Spread Orders

February 18, 2014.

On November 18, 2013, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 24.19 to revise several provisions governing the trading of Multi-Class Spread Orders. The proposed rule change was published for comment in the **Federal Register** on December 5, 2013.[3] The Commission has not received any comment letters on the proposal.

On January 7, 2014, the Commission extended the time period in which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to March 5, 2014.[4] On January 17, 2014, the Exchange submitted Amendment No. 1 to the proposed rule change. On February 12, 2014, the Exchange withdrew the proposed rule change (SR–CBOE–2013–113).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03782 Filed 2–21–14; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70961 (November 29, 2013), 78 FR 73211.

[4] *See* Securities Exchange Act Release No. 71248, 79 FR 2239 (January 13, 2013).

[5] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71559; File No. SR–PHLX–2014–10]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Risk Management Tool Commonly Known as a "Kill Switch"

February 18, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2014, NASDAQ OMX PHLX LLC ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

A proposed rule change to add a risk management tool commonly known as a "Kill Switch" as set forth in proposed PHLX Rule 3316. The new Kill Switch feature will be optional and will be offered at no charge effective March 1, 2014.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

3316. PHLX Kill Switch

(a) Definition. The PHLX Kill Switch is an optional tool offered at no charge that enables members to establish a pre-determined level of Net Notional Risk Exposure ("NNRE"), to receive notifications as the value of executed orders approaches the NNRE level, and to have order entry ports disabled and open orders administratively cancelled when the value of executed orderss exceeds the NNRE level.

(b) Net Notional Risk Exposure. Members may set a NNRE for each MPID individually. Each member is responsible for establishing and maintaining its NNRE. Members may adjust NNRE values intra-day.

(c) Notification. Members will receive notifications when the total value of executed orders associated with an MPID exceeds 50, 75, 85, 90, and 95 percent of the NNRE value. When the NNRE is exceeded, the notification will include the total number of orders cancelled and remaining open in the System.

(d) Operation. When triggered, a Kill Switch shall result in the immediate cancellation of all open orders of any type or duration entered by the member via the affected MPID, and in the immediate prevention of order entry of any type via the affected MPID. The member must request reactivation of the MPID before trading will be reauthorized.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background. PHLX currently offers a Pre-Trade Risk Management ("PRM") toolset to assist members' efforts to control risk and comply with the SEC Market Access Rule.[3] PRM provides member firms with the ability to set a wide range of parameters for orders to facilitate pre-trade protection by creating a PRM module defined to represent checks desired. Using PRM, firms can increase controls on their trading activity and the trading activity of their clients and customers at the order level, including the opportunity to prevent potentially erroneous transactions. PRM validates orders entered on PRM-enabled ports prior to allowing those orders into its matching engine and, using parameters set by the subscriber, determines if the order should be sent for fulfillment. PRM users may choose to set PRM Order Checks, Aggregate Total Checks within a PRM Module, and subscribe to PRM Workstation Add-ons to an existing PHLX Workstation or WeblinkACT 2.0. PRM manages risk by checking each order, before it is accepted into the system, against certain parameters pre-specified by the user within a module, such as maximum order size or value, order type restrictions, market session restrictions (pre/post market), security restrictions, including per-security limits, restricted stock lists, and certain other criteria.

In order for a member firm to subscribe, at least one PRM Module per market participant ID ("MPID") is required, but a user may have multiple PRM Module subscriptions per MPID, depending on the type and number of ports designated as PRM ports. A PRM Module is created to validate individual orders against pre-specified parameters. Aggregate Total Checks allow users to limit overall daily trading activity based on Buy, Sell, and/or Net trading limits. These daily trading activity limits may be established at an aggregate limit and/or security specific limit per PRM Module. Member firms may subscribe to the PRM Workstation Add-on to an existing PHLX Workstation or WeblinkACT 2.0 for a fee.

Current Proposal. PHLX will provide a tool to allow market participants to control, for each Market Participant Identifier ("MPID"), the total Net Notional Risk Exposure ("NNRE") they are prepared to accept per trading session, from 8:00 a.m. to 8:00 p.m. EST. If a market participant exceeds their pre-established NNRE the access ports associated with that MPID will be disabled and open exposure on the PHLX market under that MPID will be administratively cancelled.

The Kill Switch tool will operate on an MPID level, meaning that members will need to set a unique NNRE for each MPID used for order entry. Members can set limits for none, one, some, or all MPIDs registered to their firm. The tool will operate on all orders attributable to each MPID. Therefore, members that utilize a single MPID for multiple trading desks will be unable to establish a different NNRE for each trading desk. Members may adjust their NNRE values intraday. The NNRE will be calculated daily, meaning that it will reset at the start of each trading day.

The Kill Switch will operate at all times and on all orders when the PHLX system is open (*i.e.*, 8:00 a.m. to 8:00 p.m.) and it will cancel all open interest of all order types and all time-in-force durations.

The tool will generate and send an email to a market participant as it approaches and then exceeds the pre-determined NNRE for an MPID. As a market participant executes trades during the trading session, an email will be sent to associated Infocenter accounts

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] SEC Rule 15c3–5.

containing their current proximity to the NNRE limit they had previously established. Such notification will occur when the executed value reaches 50, 75, 85, 90, and 95 percent of the pre-determined NNRE limit.

In the event the NNRE limit is exceeded, the order entry port associated with the affected MPID will be disabled and open orders in the System will be administratively cancelled. A notification will be sent that indicates that the breach has occurred and that order flow from that port has been stopped. It will also include a count of the total number of orders cancelled. The notification will also be delivered to PHLX's trading operations team so that PHLX personnel are aware and can assist members in managing their risk exposure.

After a Kill Switch has been triggered, the member will be required to contact PHLX operations staff in order to re-authorize trading under the affected MPID. Members will be required to explain why a Kill Switch was triggered and why it is safe for the Exchange to re-authorize the MPID for order entry. Upon such request, PHLX operations staff will reactivate the order entry port associated with the affected MPID.

PHLX plans to offer the Kill Switch functionality by March 1, 2014.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[5] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The Kill Switch is designed to protect firms and investors alike by limiting the risk and damage of potential technological or other erroneous trading activity. As such, the Kill Switch is an important compliance tool that members may use to help maintain the regulatory integrity of the markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHLX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange does not believe that the provision of Kill Switch functionality should be the subject of competitive analysis. In that regard, the Exchange notes that it has coordinated with other national securities exchanges and the Financial Industry Regulatory Authority to deliver a standard level of risk management functionality commonly known as the Kill Switch.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*); or
- Send an Email to *rule-comments@sec.gov*. Please include File No. SR–PHLX–2014–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2014–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PHLX–2014–10 and should be submitted by March 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03797 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(a)(ii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71560; File No. SR–ISE–2013–72]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to More Specifically Address the Number and Size of Counterparties to a Qualified Contingent Cross Order

February 18, 2014.

On December 18, 2013, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rules 504 and 715 to more specifically address the number and size of counterparties to a Qualified Contingent Cross Order. The proposed rule change was published for comment in the **Federal Register** on January 7, 2014.[3]

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is February 21, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change, so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates April 7, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ISE–2013–72).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71208 (December 31, 2013), 79 FR 881.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03798 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71555; File No. SR–NASDAQ–2014–017]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Risk Management Tool Commonly Known as a "Kill Switch"

February 18, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2014, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposed rule change to add a risk management tool commonly known as a "Kill Switch" as set forth in proposed NASDAQ Rule 6130. The new Kill Switch feature will be optional and will be offered at no charge effective March 1, 2014. The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

6130. NASDAQ Kill Switch

(a) Definition. The NASDAQ Kill Switch is an optional tool offered at no charge that enables participants to establish a pre-determined level of Net Notional Risk Exposure ("NNRE"), to receive notifications as the value of executed orders approaches the NNRE level, and to have order entry ports disabled and open orders administratively cancelled when the value of executed orders exceeds the NNRE level.

(b) Net Notional Risk Exposure. Participants may set a NNRE for each MPID individually. Each participant is responsible for establishing and maintaining its NNRE. Participants may adjust NNRE values intra-day.

(c) Notification. Participants will receive notifications when the total value of executed orders associated with an MPID exceeds 50, 75, 85, 90, and 95 percent of the NNRE value. When the NNRE is exceeded, the notification will include the total number of orders cancelled and remaining open in the System.

(d) Operation. Unless cancellation is prohibited by Rule 4752, 4753, or 4754, a Kill Switch when triggered shall result in the immediate cancellation of all open orders of any type or duration entered by the participant via the affected MPID, and in the immediate prevention of order entry of any type via the affected MPID. The participant must request reactivation of the MPID before trading will be reauthorized.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background. NASDAQ has offered a Pre-Trade Risk Management ("PRM") toolset since 2002, before NASDAQ began operating as a national securities exchange and before the Commission adopted the Market Access Rule.[3] PRM provides participant firms with the ability to set a wide range of parameters for orders to facilitate pre-trade protection by creating a PRM module defined to represent checks desired. Using PRM, firms can increase controls on their trading activity and the trading activity of their clients and customers at the order level, including the opportunity to prevent potentially

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] SEC Rule 15c3–5.

erroneous transactions. PRM validates orders entered on PRM-enabled ports prior to allowing those orders into its matching engine and, using parameters set by the subscriber, determines if the order should be sent for fulfillment. PRM users may choose to set PRM Order Checks, Aggregate Total Checks within a PRM Module, and subscribe to PRM Workstation Add-ons to an existing NASDAQ Workstation or WeblinkACT 2.0. PRM manages risk by checking each order, before it is accepted into the System, against certain parameters pre-specified by the user within a module, such as maximum order size or value, order type restrictions, market session restrictions (pre/post market), security restrictions, including per-security limits, restricted stock lists, and certain other criteria.

In order for a participant firm to subscribe, at least one PRM Module per market participant ID ("MPID") is required, but a user may have multiple PRM Module subscriptions per MPID, depending on the type and number of ports designated as PRM ports. A PRM Module is created to validate individual orders against pre-specified parameters. Aggregate Total Checks allow users to limit overall daily trading activity based on Buy, Sell, and/or Net trading limits. These daily trading activity limits may be established at an aggregate limit and/or security specific limit per PRM Module. Participant firms may subscribe to the PRM Workstation Add-on to an existing NASDAQ Workstation or WeblinkACT 2.0 for a fee.

Current Proposal. NASDAQ will provide a tool to allow market participants to control, for each Market Participant Identifier ("MPID"), the total Net Notional Risk Exposure ("NNRE") they are prepared to accept per trading session, from 04:00 to 20:00 EST. If a market participant exceeds their pre-established NNRE the access ports associated with that MPID will be disabled and open exposure on the NASDAQ Market under that MPID will be administratively cancelled.

The Kill Switch tool will operate on an MPID level, meaning that participants will need to set a unique NNRE for each MPID used for order entry. Participants can set limits for none, one, some, or all MPIDs registered to their firm. The tool will operate on all orders attributable to each MPID. Therefore, participants that utilize a single MPID for multiple trading desks will be unable to establish a different NNRE for each trading desk. Participants may adjust their NNRE values intraday. The NNRE will be calculated daily, meaning that it will reset at the start of each trading day.

With the limited exceptions noted below, the Kill Switch will operate at all times and on all orders when the NASDAQ System is open (*i.e.,* 4:00 a.m. to 8:00 p.m.) and it will cancel all open interest of all order types and all time-in-force durations. The Kill Switch function will not cancel orders directed to a NASDAQ Cross during the period leading up to a NASDAQ Cross when order cancellation is prohibited. Specifically, the Kill Switch will not cancel Cross orders just prior to an Opening Cross (9:28:00–:09:30:00),[4] a Halt or Initial Public Opening Cross,[5] or a Closing Cross (15:50:00–16:00:00).[6] With these exceptions, the Kill Switch will operate universally whenever the NASDAQ System is open.

The tool will generate and send an email to a market participant as it approaches and then exceeds the pre-determined NNRE for an MPID. As a Participant executes trades during the trading session, an email will be sent to associated Infocenter accounts containing their current proximity to the NNRE limit they had previously established. Such notification will occur when the executed value reaches 50, 75, 85, 90, and 95 percent of the pre-determined NNRE limit.

In the event the NNRE limit is exceeded, the order entry port associated with the affected MPID will be disabled and open orders in the System will be administratively cancelled. A notification will be sent that indicates that the breach has occurred and that order flow from that port has been stopped. It will also include a count of the total number of orders cancelled and the total number of auction-specific orders still exposed.[7] The notification will also be delivered to NASDAQ's trading operations team so that NASDAQ personnel are aware and can assist participants in managing their risk exposure.

After a Kill Switch has been triggered, the participant will be required to contact NASDAQ operations staff in order to re-authorize trading under the affected MPID. Participants will be required to explain why a Kill Switch was triggered and why it is safe for the Exchange to re-authorize the MPID for order entry. Upon such request, NASDAQ operations staff will be reactivate the order entry port associated with the affected MPID.

NASDAQ plans to offer the Kill Switch functionality by March 1, 2014.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[9] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The Kill Switch is designed to protect firms and investors alike by limiting the risk and damage of potential technological or other erroneous trading activity. As such, the Kill Switch is an important compliance tool that participants may use to help maintain the regulatory integrity of the markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange does not believe that the provision of Kill Switch functionality should be the subject of competitive analysis. In that regard, the Exchange notes that it has coordinated with other national securities exchanges and the Financial Industry Regulatory Authority to deliver a standard level of risk management functionality commonly known as the Kill Switch.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time

[4] *See* NASDAQ Rule 4752(a).

[5] *See* NASDAQ Rule 4753(a).

[6] *See* NASDAQ Rule 4754(a).

[7] Auction orders will continue to be available to execute in the cross. Auction orders that do not execute in the intended cross will be cancelled administratively when the cross is complete.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–NASDAQ–2014–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–017 and should be submitted by March 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03781 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(a)(ii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71562; File No. SR–TOPAZ–2013–20]

Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to More Specifically Address the Number and Size of Counterparties to a Qualified Contingent Cross Order

February 18, 2014.

On December 18, 2013, the Topaz Exchange, LLC (n/k/a ISE Gemini, LLC) ("Topaz" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Rule 715 to more specifically address the number and size of counterparties to a Qualified Contingent Cross Order. The proposed rule change was published for comment in the **Federal Register** on January 7, 2014.[3]

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is February 21, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change, so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates April 7, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–TOPAZ–2013–20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03799 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 71209 (December 31, 2013), 79 FR 867.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71557; File No. SR–BX–2014–010]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Risk Management Tool Commonly Known as a "Kill Switch"

February 18, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2014, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add a risk management tool commonly known as a "Kill Switch" as set forth in proposed BX Rule 4764. The new Kill Switch feature will be optional and will be offered at no charge effective March 1, 2014. The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

4764. BX Kill Switch

(a) Definition. The BX Kill Switch is an optional tool offered at no charge that enables participants to establish a pre-determined level of Net Notional Risk Exposure ("NNRE"), to receive notifications as the value of executed orders approaches the NNRE level, and to have order entry ports disabled and open orders administratively cancelled when the value of executed orders exceeds the NNRE level.

(b) Net Notional Risk Exposure. Participants may set a NNRE for each MPID individually. Each participant is responsible for establishing and maintaining its NNRE. Participants may adjust NNRE values intra-day.

(c) Notification. Participants will receive notifications when the total value of executed orders associated with an MPID exceeds 50, 75, 85, 90, and 95 percent of the NNRE value. When the NNRE is exceeded, the notification will include the total number of orders cancelled and remaining open in the System.

(d) Operation. When triggered, a Kill Switch shall result in the immediate cancellation of all open orders of any type or duration entered by the participant via the affected MPID, and in the immediate prevention of order entry of any type via the affected MPID. The participant must request reactivation of the MPID before trading will be reauthorized.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background. BX currently offers a Pre-Trade Risk Management ("PRM") toolset to assist participants efforts to control risk and comply with the SEC Market Access Rule.[3] PRM provides participant firms with the ability to set a wide range of parameters for orders to facilitate pre-trade protection by creating a PRM module defined to represent checks desired. Using PRM, firms can increase controls on their trading activity and the trading activity of their clients and customers at the order level, including the opportunity to prevent potentially erroneous transactions. PRM validates orders entered on PRM-enabled ports prior to allowing those orders into its matching engine and, using parameters set by the subscriber, determines if the order should be sent for fulfillment. PRM users may choose to set PRM Order Checks, Aggregate Total Checks within a PRM Module, and subscribe to PRM Workstation Add-ons to an existing BX Workstation or WeblinkACT 2.0. PRM manages risk by checking each order, before it is accepted into the System, against certain parameters pre-specified by the user within a module, such as maximum order size or value, order type restrictions, market session restrictions (pre/post market), security restrictions, including per-security limits, restricted stock lists, and certain other criteria.

In order for a Participant to subscribe, at least one PRM Module per market participant ID ("MPID") is required, but a user may have multiple PRM Module subscriptions per MPID, depending on the type and number of ports designated as PRM ports. A PRM Module is created to validate individual orders against pre-specified parameters. Aggregate Total Checks allow users to limit overall daily trading activity based on Buy, Sell, and/or Net trading limits. These daily trading activity limits may be established at an aggregate limit and/or security specific limit per PRM Module. Participant may subscribe to the PRM Workstation Add-on to an existing BX Workstation or WeblinkACT 2.0 for a fee.

Current Proposal. BX will provide a tool to allow market participants to control, for each Market Participant Identifier ("MPID"), the total Net Notional Risk Exposure ("NNRE") they are prepared to accept per trading session, from 8:00 a.m. to 8:00 p.m. EST. If a market participant exceeds their pre-established NNRE the access ports associated with that MPID will be disabled and open exposure on the BX market under that MPID will be administratively cancelled.

The Kill Switch tool will operate on an MPID level, meaning that participants will need to set a unique NNRE for each MPID used for order entry. Participants can set limits for none, one, some, or all MPIDs registered to their firm. The tool will operate on all orders attributable to each MPID. Therefore, participants that utilize a single MPID for multiple trading desks will be unable to establish a different NNRE for each trading desk. Participants may adjust their NNRE values intraday. The NNRE will be calculated daily, meaning that it will reset at the start of each trading day.

The Kill Switch will operate at all times and on all orders when the BX System is open (*i.e.*, 8:00 a.m. to 8:00 p.m.) and it will cancel all open interest of all order types and all time-in-force durations.

The tool will generate and send an email to a market participant as it approaches and then exceeds the pre-determined NNRE for an MPID. As a Participant executes trades during the trading session, an email will be sent to associated Infocenter accounts containing their current proximity to the NNRE limit they had previously established. Such notification will occur when the executed value reaches 50, 75, 85, 90, and 95 percent of the pre-determined NNRE limit.

In the event the NNRE limit is exceeded, the order entry port associated with the affected MPID will be disabled and open orders in the System will be administratively cancelled. A notification will be sent that indicates that the breach has occurred and that order flow from that port has been stopped. It will also include a count of the total number of orders cancelled. The notification will also be delivered to BX's trading operations team so that BX personnel are aware and can assist participants in managing their risk exposure.

After a Kill Switch has been triggered, the participant will be required to contact BX operations staff in order to re-authorize trading under the affected MPID. Participants will be required to explain why a Kill Switch was triggered and why it is safe for the Exchange to re-authorize the MPID for order entry. Upon such request, BX operations staff

[3] SEC Rule 15c3–5.

will be reactivate the order entry port associated with the affected MPID.

BX plans to offer the Kill Switch functionality by March 1, 2014.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[5] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The Kill Switch is designed to protect firms and investors alike by limiting the risk and damage of potential technological or other erroneous trading activity. As such, the Kill Switch is an important compliance tool that participants may use to help maintain the regulatory integrity of the markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange does not believe that the provision of Kill Switch functionality should be the subject of competitive analysis. In that regard, the Exchange notes that it has coordinated with other national securities exchanges and the Financial Industry Regulatory Authority to deliver a standard level of risk management functionality commonly known as the Kill Switch.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–BX–2014–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2014–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2014–010 and should be submitted by March 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03783 Filed 2–21–14; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78 (f)(b)(5).

[6] 15 U.S.C. 78s(b)(3)(a)(ii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Ads in Motion, Inc., Premier Beverage Group Corp., Pulmo BioTech, Inc., TriMedia Entertainment Group, Inc., and Zanett, Inc., Order of Suspension of Trading

February 20, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ads In Motion, Inc. because it has not filed any periodic reports since the period ended February 26, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Premier Beverage Group 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 Pulmo BioTech, Inc. because it has not filed any periodic reports since the period ended December 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TriMedia Entertainment Group, Inc. because it has not filed any periodic reports since the period ended July 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Zanett, Inc. because it has not filed any periodic reports since the period ended March 31, 2011.

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. EST on February 20, 2014, through 11:59 p.m. EST on March 5, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–03993 Filed 2–20–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Tweeter Home Entertainment Group, Inc. (a/k/a TWTR, Inc.), Ultitek, Ltd., Utix Group, Inc., Velocity Express Corporation, and Vyteris, Inc.; Order of Suspension of Trading

February 20, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tweeter Home Entertainment Group, Inc. (a/k/a TWTR, Inc.) because it has not filed any periodic reports since the period ended March 31, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ultitek, Ltd. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Utix Group, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Velocity Express Corporation because it has not filed any periodic reports since the period ended March 28, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vyteris, Inc. because it has not filed any periodic reports since the period ended March 31, 2011.

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. EST on February 20, 2014, through 11:59 p.m. EST on March 5, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–03992 Filed 2–20–14; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13892 and # 13893]

New York Disaster # NY–00140

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New York dated 02/12/2014.

Incident: Ice Jam Flooding.

Incident Period: 01/11/2014 through 01/12/2014.

Effective Date: 02/12/2014.

Physical Loan Application Deadline Date: 04/14/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 11/12/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Erie.

Contiguous Counties:

New York: Cattaraugus, Chautauqua, Genesee, Niagara, Wyoming.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.500
Homeowners Without Credit Available Elsewhere	2.250
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13892 6 and for economic injury is 13893 0.

The State which received an EIDL Declaration # is New York.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: February 12, 2014.

Marianne O'Brien Markowitz,

Acting Administrator.

[FR Doc. 2014–03766 Filed 2–21–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ASSOCIATION

National Women's Business Council; Federal Register Meeting Notice; Quarterly Public Meeting

AGENCY: National Women's Business Council, SBA.

ACTION: Notice of open Public Meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for its public meeting of the National Women's Business Council. The meeting will be open to the public.

DATES: March 26, 2014 from 12:00 p.m. Eastern Time to 2:00 p.m. Eastern Time. This meeting will take place in the SBA Headquarters, Eisenhower Conference Room.

ADDRESSES: The SBA is located at 409 Third Street, SW. Please contact Taylor Barnes at 202–205–6827 or *Taylor.barnes@nwbc.gov* to receive more information and conference call details.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the National Women's Business Council. The National Women's Business Council is tasked with providing policy recommendations on issues of importance to women business owners to the President, Congress, and the SBA Administrator. The purpose of the meeting is to provide updates on the NWBC's 2014 research agenda and action items for fiscal year 2014 included but not limited to procurement, access to capital, access to markets, young and high-growth women entrepreneurs. The topics to be discussed will include 2014 projects, goals and research.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to attend must either email their interest to *taylor.barnes@nwbc.gov* or call at 202–205–6827 no later than March 19, 2014.

Those needing special accommodation in order to attend or participate in the meeting, please contact 202–205–6827 no later than March 19, 2014.

For more information, please visit our Web site at *www.nwbc.gov.*

Dated: February 18, 2014.

Diana Doukas,

SBA Committee Management Officer.

[FR Doc. 2014–03776 Filed 2–21–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 8643]

Culturally Significant Objects Imported for Exhibition Determinations: "Jasper Johns: Regrets" 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 "Jasper Johns: Regrets," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, NY, from on or about March 15, 2014, until on or about September 1, 2014, 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: February 12, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–03892 Filed 2–21–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

[Dockets DOT–OST–2013–0105 and DOT–OST–2013–0106; Notice of Order to Show Cause (Order 2014–2–11)]

Applications of Western Global Airlines, LLC for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders finding Western Global Airlines, LLC fit, willing, and able, and awarding it certificates of public convenience and necessity authorizing it to engage in interstate and foreign charter air transportation of property and mail.

DATES: Persons wishing to file objections should do so no later than February 19, 2014.

ADDRESSES: Objections and answers to objections should be filed in Dockets DOT–OST–2013–0105 and DOT–OST–2013–0106 and addressed to the Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Catherine O'Toole, Air Carrier Fitness Division, (X–56, Office W86–469), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–9721.

Dated: February 11, 2014.

Susan L. Kurland,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2014–03598 Filed 2–21–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of a Record of Decision (ROD) and Order for a Written Re-evaluation of Final Environmental Impact Statement (FEIS) for the Development and Expansion of Runway 9R–27L and Associated Projects at the Fort Lauderdale-Hollywood International Airport

AGENCY: Federal Aviation Administration, U.S. Department of Transportation (DOT).

ACTION: Notice of Availability of a ROD and Order.

SUMMARY: The FAA is issuing this notice to advise the public that it has issued a ROD and Order for a Written Re-evaluation of the FEIS for the Development and Expansion of Runway 9R–27L and Associated Projects at the Fort Lauderdale-Hollywood International Airport, Broward County, Florida. The FEIS for the runway expansion project was issued in June 2008. The FAA issued a ROD for this Federal action in December 2008. In July 2011, FAA approved a Written Re-evaluation and issued a ROD and Order for further refinements resulting from 60-percent design changes to the previously approved runway expansion. Broward County, the airport sponsor, has submitted a request to the FAA for approval of additional design refinements associated with engineering the new runway and taxiway system as construction of the previously approved project continues. These design changes include realignment of the Airport Perimeter Road on the southwest side of the airport, modification of an emergency navigational aid (NAVAID) access road on the east side of the airport, and the design to the NAVAID runway approach lighting system and the associated maintenance bridge. The current ROD and Order approves the engineering and design refinements to the previously approved project disclosed in the written re-evaluation and as shown on the 2011 Airport Layout Plan.

SUPPLEMENTARY INFORMATION: Copies of this ROD and Order and Written Re-

evaluation are available for public review at the following locations during normal business hours: Fort Lauderdale-Hollywood International Airport, 2200 SW 45th Street, Suite 101, Telephone 954–359–6978; Federal Aviation Administration Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida, Telephone (407) 812–6331; Federal Aviation Administration Southern Region Office, 1701 Columbia Avenue, College Park, GA 30337, Telephone (404) 305–6700. The ROD and Order and written re-evaluation will also be available on Broward County's Web site: *http://www.broward.org/Airport/Community/Pages/FEIS.aspx*. The ROD and Order, and written re-evaluation will also be available for review at the FAA's Web site *www.faa.gov*.

FOR FURTHER INFORMATION CONTACT: Virginia Lane, Environmental Program Specialist, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, Telephone (407) 812–6331 Extension 129.

Issued in Orlando, Florida on February 13, 2014.

Bart Vernace,

Manager, FAA Orlando Airports District Office.

[FR Doc. 2014–03741 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2014–0011–N–3]

Information Collection Requirements

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on December 23, 2013 (78 FR 246).

DATES: Comments must be submitted on or before March 26, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Wylie, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6353), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.).

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On December 23, 2013, FRA published a 60-day notice in the **Federal Register** soliciting comments on ICR that the agency was seeking OMB approval. 78 FR 246. FRA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the ICRs and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Rehabilitation and Improvement Financing Program

OMB Control Number: 2130–0580

Type of Request: Revision of a currently approved collection.

Affected Public: State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least one railroad.

Abstract: The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. 110–329; September 30, 2008), established the Railroad Rehabilitation and Repair Program, making Federal funds available directly to States. This Program allowed grant to fund up to 80 percent of the cost of rehabilitation and repairs to Class II and Class III railroad infrastructure damaged by hurricanes, floods, and other natural disasters in areas that are located in counties that have been identified in a Disaster Declaration for Public Assistance by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974. Funding was made available on a reimbursement basis for costs incurred after a major disaster declaration that was made between January 1, 2008, and the date of the publication of the notice of funding availability in the counties covered by such a declaration. Rehabilitation and repairs include rights-of-way, bridges, signals, and other infrastructure which is part of the general railroad system of transportation and primarily used by railroads to move freight traffic.

FRA recently revised this ICR to allow for the submission of additional grants under this program based on the Notice of Funding Availability published by FRA on October 13, 2013, and the emergency clearance request approved by OMB on November 5, 2013. Any grants submitted as part of this previous information collection request were due by December 9, 2013. Therefore, this revision no longer includes any burden hours for the application process, as no new applications are being accepted at this time.

Due to the nature of these disaster assistance funds, current economic conditions, and the various States need for immediate assistance to vital freight transportation pathways and the important role these sectors of transportation play in the overall national economy, FRA is requesting OMB to extend this ICR in order to manage the current grants obligated under this program until the remaining grants have properly closed-out and are completed.

Form Number(s): SF–425, SF271, SF–270.

Annual Estimated Burden Hours: 504 hours

Addressee: Send comments regarding these information collections to the

Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov.*

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register.**

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on February 19, 2014.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2014–03851 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0134; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: General Motors, LLC, (GM) has determined that certain model year 2014 Chevrolet Silverado and GMC Sierra trucks manufactured between January 29, 2013 and October 28, 2013, do not fully comply with paragraph S5.3.1(e) of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays,* and paragraph S3.1.4.1 of FMVSS No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect.* GM has filed an appropriate report dated October 31, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is March 26, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION: *I. GM's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 200,921 model year 2014 Chevrolet Silverado and GMC Sierra trucks manufactured between January 29, 2013 and October 28, 2013.

III. Noncompliance: GM explains that the noncompliance is that under certain circumstances when an owner uses the steering wheel controls to browse and select songs to play from an external device (i.e., MP3 player) that is plugged into one of the vehicle's USB ports, the instrument cluster may reset. When the instrument cluster resets the analog gauges and identifications, the PRNDM [shift position] indicator, and the cruise control telltale will briefly turn off. In addition, some of the instrument cluster telltales may also illuminate briefly without the condition the telltale is designed to indicate being present.

IV. Rule Text: Paragraph S5.3.1(e) of FMVSS No. 101 requires in pertinent part:

S5.3.1(e) Timing of Illumination

(e) A Telltale must not emit light except when identifying the malfunction or vehicle condition it is designed to indicate, or during a bulb check . . .

Paragraph S3.1.4.1 of FMVSS No. 102 requires in pertinent part:

S5.3.1(e) Except as specified in S3.1.4.1 if the transmission shift position sequence includes a park position, identification of shift positions, including the positions in relation to each other and the position selected, shall be displayed in view of the driver whenever any of the following conditions exist . . .

V. Summary of GM's Analyses: GM stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

A. The condition is extremely unlikely to occur.

Before the condition can occur, the driver must operate a media device

inserted into one of the vehicle's USB ports in a very specific way, while other associated conditions also occur as follows:

1. The driver must insert a media device, such as a jump drive or MP3 player, into one of the USB ports to access songs on the media device. The songs on that device will start playing without further driver intervention.

2. To select a particular song, either the center cluster controls or the steering wheel controls may be used. The condition will not occur if the center cluster controls are used, but if the redundant steering wheel controls are used to select a song, the condition may occur if the following series of events also occurs:

a. The driver searches for a particular song by depressing the left arrow on the right spoke of the steering wheel;

b. then selects "audio" using the steering wheel controls;

c. then selects "browse" using the steering wheel controls;

d. then scrolls to a particular song using the steering wheel controls; and

e. then selects the song to play. At this point, operation remains normal.

f. If the driver selects "browse" using the steering wheel controls to select a second song, the subject condition may occur, but only if the total information in titles of the buffered songs exceeds 2,000 bytes. (**Note:** Fifteen songs are uploaded at a time to the buffer).

The combination of the specific series of events noted above, together with the [total] information in the buffer exceeding 2000 bytes, is very unlikely.

GM is aware of only 2 incidents of the subject condition occurring. These incidents were isolated to the test vehicle fleet (589 vehicles), which has accrued over 7 million total miles.

GM checked all warranty claims on the subject vehicles and did not find any complaints related to the subject condition. The subject vehicles in the field are likely to have accrued over 106 million miles with no field reports of the noncompliant condition.

GM is not aware of any complaints to NHTSA about this condition.

B. The condition is short-lived.

The disruption of the PRNDM and the activation of the telltales as a result of this condition are very brief. In the unlikely event the subject condition were to occur and the instrument cluster resets, the gear [shift position] display extinguishes for one and one half seconds and a telltale bulb check is triggered, which persists for approximately five seconds. This momentary condition would be a clear indication to the driver that service may be required.

GM is unaware of any previous recall for a short-lived activation of the telltales. GM is also unaware of any previous recall for a short-live disruption of the gear selector [display].

In addition, GM referred to a NHTSA response to a letter from Ford Motor Company dated May 23, 1979, in which GM believes that NHTSA acknowledged that a short-lived inability to view telltales does not necessarily warrant manufacturers correcting the condition.

C. The condition has little effect on the normal operation of the vehicle.

While the operation of the instrument panel is briefly affected by the underlying condition, none of the other vehicle operations are affected. Any underlying messages remain in place and will continue to be displayed after the instrument panel resets. Other operations, like cruise control, are unaffected by the subject condition. Only the displays on the instrument panel are briefly affected by the condition.

If the condition were to occur it is unlikely the brief disruption of the PRNDM will affect the driver. The condition can only be triggered when the driver is searching for a song with the steering wheel controls, which are located on the right spoke of the steering wheel. If the driver is in the process of searching for a song, it is unlikely the driver will shift the transmission for the one and one half seconds the PRNDM is disrupted, since the driver would also use his right hand to shift.

D. NHTSA has previously granted petitions for inconsequential noncompliance that GM believes can be applied to a decision on its petition. Refer to GM's petition for a complete discussion of its reasoning.

GM has additionally informed NHTSA that it has corrected the noncompliance so that all future production of these vehicles will comply with FMVSS No. 110 and FMVSS No. 120.

In summation, GM believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject noncompliant vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–03896 Filed 2–21–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 712X)]

CSX Transportation, Inc.—Abandonment Exemption—in White County, Ind.

On February 4, 2014, CSX Transportation, Inc. (CSXT) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon approximately 9.67 miles of rail line on its Monticello Industrial Track, Monon Subdivision, between Monon, milepost 0QA 88.33, and Monticello at the end of the track, milepost 0QA 98.00, in White County, Ind. (the Line).[1] The Line traverses United States Postal Service Zip Codes 47959 and 47960 and includes the Monon Station, milepost 0QA 88.3, and the Monticello Station, milepost 0QA 98.00.

CSXT states that, based on information in its possession, the Line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

[1] CSXT states that there is one shipper on the line, Monticello Farm Service, Inc. (MFS), and that the revenue generated by MFS is insufficient to cover operation and maintenance costs, much less generate a return on CSXT's investment in the Line. In addition, CSXT states that it does not expect any new rail-oriented business to develop on the Line, and upon receipt of abandonment authority, it plans to use a portion of the Line near Monon for car storage and to salvage the track and improvements on the remainder of the Line.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 23, 2014.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,600 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 17, 2014. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 55 (Sub-No. 712X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204. Replies to the petition are due on or before March 17, 2014.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: February 19, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2014–03869 Filed 2–21–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

List of Countries Requiring Cooperation with an International Boycott

AGENCY: Office of the Secretary, Department of the Treasury.

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Iraq
Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen

Date: February 14, 2014.

Danielle Rolfes,

International Tax Counsel (Tax Policy).

[FR Doc. 2014–03693 Filed 2–21–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8826

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 Form 8826, Disabled Access Credit.

DATES: Written comments should be received on or before April 25, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, 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 Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disabled Access Credit.

OMB Number: 1545–1205.

Form Number: Form 8826.

Abstract: Internal Revenue Code section 44 allows eligible small businesses to claim a nonrefundable income tax credit of 50% of the amount of eligible access expenditures for any tax year that exceed $250 but do not exceed $10,250. Form 8826 figures the credit and the tax liability limit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms and individuals.

Estimated Number of Respondents: 17,422.

Estimated Time per Respondent: 5 hrs., 6 minutes.

Estimated Total Annual Burden Hours: 89,027.

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: February 12, 2014.

Allan M. Hopkins,

Tax Analyst.

[FR Doc. 2014–03747 Filed 2–21–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 15597

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 Form 15597, Foreclosure Sale Purchaser Contact Information Request.

DATES: Written comments should be received on or before April 25, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, 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 Kerry Dennis, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov*

SUPPLEMENTARY INFORMATION:

Title: Foreclosure Sale Purchaser Contact Information Request.

OMB Number: 1545–2199.

Form Number: Form 15597.

Abstract: Form 15597, Foreclosure Sale Purchaser Contact Information Request, is information requested of individuals or businesses that have purchased real property at a third party foreclosure sale. If the IRS has filed a "Notice of Federal Tax Lien" publically notifying a taxpayer's creditors that the taxpayer owes the IRS a tax debt, and a creditor senior to the IRS position later forecloses on their creditor note (such as the mortgage holder of a taxpayers primary residence) then the IRS tax claim is discharged or removed from the property (if the appropriate foreclosure rules are followed) and the foreclosure sale purchaser buys the property free and clear of the IRS claim EXCEPT that the IRS retains the right to "redeem" or buy back the property from the foreclosure sale purchaser w/in 120 days after the foreclosure sale. Collection of this information is authorized by 28 USC 2410 and IRC 7425.

Current Actions: There are no changes made to the document, however, the agency has adjusted its estimated number of responses based on the most recent data (FY2013) and the method used to calculate the time per respondent, which results in a change in the estimated total annual burden previously reported to OMB.

Type of Review: Revision of a previously approved collection.

Affected Public: Individuals or households, business or other for-profit groups, not-for-profit institutions, farms, Federal Government, State, Local, or Tribal Governments.

Estimated Number of Responses: 150.

Estimated Time per Respondent: 4.5 minutes.

Estimated Total Annual Burden Hours: 612.

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: February 18, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–03748 Filed 2–21–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice and Request for Comments

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)). The IRS is soliciting comments application requirements, retroactive reinstatement and reasonable cause.

DATES: Written comments should be received on or before April 25, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application Requirements, Retroactive Reinstatement and Reasonable Cause under Section 6033(j).

OMB Number: 1545–2206.

Notice Number: Notice 2011–44.

Abstract: This notice provides guidance with respect to applying for reinstatement and requesting retroactive reinstatement and establishing reasonable cause under section 6033(j)(2) and (3) of the Internal Revenue Code (the Code) for an organization that has had its tax-exempt status automatically revoked under section 6033(j)(1) of the Code. The Treasury Department (Treasury) and the Internal Revenue Service (IRS) intend to issue regulations under section 6033(j) that will prescribe rules, including rules relating to the application for reinstatement of tax-exempt status under section 6033(j)(2) and the request for retroactive reinstatement under section 6033(j)(3).

Current Actions: There are no changes being made to the burden previously requested, at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 6,026.

Estimated Average Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 6,026.

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 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: February 18, 2014.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2014–03754 Filed 2–21–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form CT–2

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 Form CT–2, Employee Representative's Quarterly Railroad Tax Return.

DATES: Written comments should be received on or before April 25, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, 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 Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Employee Representative's Quarterly Railroad Tax Return.

OMB Number: 1545–0002.

Form Number: Form CT–2.

Abstract: Employee representatives file Form CT–2 quarterly to report compensation on which railroad retirement taxes are due. The IRS uses this information to ensure that employee representatives have paid the correct tax. Form CT–2 also transmits the tax payment.

Current Actions: This form was revised to allow for the reporting of Additional Medicare tax on employee wages that exceed $200,000.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 112.

Estimated Time per Respondent: 1 hr., 11 min.

Estimated Total Annual Burden Hours: 132.

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: February 12, 2014.

Allan M. Hopkins,

IRS Tax Analyst.

[FR Doc. 2014–03746 Filed 2–21–14; 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, Gain Recognition Agreements With Respect to Certain Transfers of Stock or Securities by United States Persons to Foreign Corporations.

DATES: Written comments should be received on or before April 25, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Gain Recognition Agreements With Respect to Certain Transfers of Stock or Securities by United States Persons to Foreign Corporations.

OMB Number: 1545–2056.

Regulation Project Number: TD 9446.

Abstract: This document contains final regulations under section 367(a) of the Internal Revenue Code (Code) concerning gain recognition agreements filed by United States persons with respect to transfers of stock or securities to foreign corporations. The regulations finalize temporary regulations published on February 5, 2007 (T.D. 9311, 2007–1 C.B. 635). The regulations primarily affect United States persons that transfer (or have transferred) stock or securities to foreign corporations and that will enter (or have entered) into a gain recognition agreement with respect to such a transfer.

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.

Estimated Number of Respondents: 220.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 340.

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: February 12, 2014.

Allan M. Hopkins,

Tax Analyst.

[FR Doc. 2014–03749 Filed 2–21–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8609 and 8609A

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 low-income housing credit allocation and certification.

DATES: Written comments should be received on or before April 25, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, 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 Gerald J. Shields, LL.M., at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.J.Shields@IRS.gov.*

SUPPLEMENTARY INFORMATION:

Title: Low-Income Housing Credit Allocation and Certification.

OMB Number: 1545–0988.

Form Number: Forms 8609 and 8609A.

Abstract: Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 can be used to obtain a housing credit allocation from the housing credit agency. A separate Form 8609 must be issued for each building in a multiple building project. Form 8609 is also used to certify certain information. Form 8609–A is filed by a building owner to report compliance with the low-income housing provisions and calculate the low-income housing credit. Form 8609–A must be filed by the building owner for each year of the 15-year compliance period. File one Form 8609–A for the allocation(s) for the acquisition of an existing building and a separate Form 8609–A for the allocation(s) for rehabilitation expenditures.

Current Actions: This is an extension of a currently approved collection without changes.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 359,046.

Estimated Time per Respondent: 31hrs 01min.

Estimated Total Annual Burden Hours: 4,090,332.

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: February 5, 2014.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–03755 Filed 2–21–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Renewal for Currently Approved Information Collection: Comment Request for Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: United States Mint, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The United States Mint invites the general public and other Federal agencies to take this opportunity to comment on currently approved information collection 1525–0014, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The United States Mint, a bureau of the Department of the Treasury, is soliciting comments on the United States Mint customer comment cards/complaint forms, discussion groups, focus groups, in-person observation testing, and surveys to include post-transaction surveys, opt-out web surveys, and in-person observation testing (Web site or software usability tests).

DATES: Written comments should be received on or before April 25, 2014 be assured of consideration.

ADDRESSES: Direct all written comments to Yvonne Pollard; Compliance Branch; United States Mint; 801 9th Street NW., 6th Floor; Washington, DC 20220; (202) 354–6784 (this is not a toll-free number); *YPollard@usmint.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for copies of the information collection package should be directed to Yvonne Pollard; Compliance Branch; United States Mint; 801 9th Street, NW., 6th Floor; Washington, DC 20220; (202) 354–8400 (this is not a toll-free number); *YPollard@usmint.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1525–0014.

Abstract: The proposed comment cards/complaint forms, discussion groups, focus groups, in-person observation testing, and surveys to include post-transaction surveys, opt-out web surveys (Web site or software usability tests), and opinion surveys will allow the United States Mint to assess the acceptance of, potential demand for, and barriers to acceptance/increased demand for current and future United States Mint products, and the needs and desires of customers for more effective, efficient, and satisfaction experience with United States Mint programs and services.

Current Actions: The United States Mint currently engages in information collection using the methods, and for the purposes, described in the abstract.

Type of Review: Renewal of a currently approved information collection.

Affected Public: Businesses or other-for-profit; not-for-profit institutions; State, Local, or Tribal Governments; and individuals or households.

Estimated Number of Respondents: The estimated number of annual respondents is 10,000.

Estimated Total Annual Burden Hours: The estimated number of annual burden hours is 10,000.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 18, 2014.

Beverly Ortega Babers,

Chief Administrative Officer, United States Mint.

[FR Doc. 2014–03777 Filed 2–21–14; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0129]

Agency Information Collection (Supplemental Disability Report) Activities under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 26, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to "OMB Control No. 2900–0129" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to "OMB Control No. 2900–0129."

SUPPLEMENTARY INFORMATION:

Title: Supplemental Disability Report, VA Form Letter 29–30a.

OMB Control Number: 2900–0129.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 29–30a is used by the insured to provide additional information required to process a claim for disability insurance benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 29, 2013, at page 71725.

Affected Public: Individuals or households.

Estimated Annual Burden: 548 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,570.

Dated: February 18, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–03880 Filed 2–21–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Clinical Science Research and Development Service Cooperative Studies Scientific Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Clinical Science Research and Development Service Cooperative Studies Scientific Evaluation Committee will hold a meeting on March 13, 2014, at the American Association of Airport Executives, 601 Madison Street, Alexandria, VA. The meeting will begin at 8:30 a.m. and end at 12:00 p.m.

The Committee advises the Chief Research and Development Officer through the Director of the Clinical Science Research and Development Service on the relevance and feasibility of proposed projects and the scientific validity and propriety of technical details, including protection of human subjects.

The session will be open to the public for approximately 30 minutes at the start of the meeting for the discussion of administrative matters and the general status of the program. The remaining portion of the meeting will be closed to the public for the Committee's review, discussion, and evaluation of research and development applications.

During the closed portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. As provided by section 10(d) of Public Law 92–463, as amended, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c)(6) and (c)(9)(B).

The Committee will not accept oral comments from the public for the open portion of the meeting. Those who plan to attend or wish additional information should contact Dr. Grant Huang, Acting Director, Cooperative Studies Program (10P9CS), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 443–5700 or by email at *grant.huang@va.gov.* Those wishing to submit written comments may send them to Dr. Huang at the same address and email.

By Direction of the Secretary:

Dated: February 19, 2014.

Rebecca Schiller,

Committee Management Officer.

[FR Doc. 2014–03807 Filed 2–21–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Cemeteries and Memorials will be held on May 7–8, 2014, in the Board of Veterans Appeals Conference Room at 425 I Street NW., Room 4E.400, Washington, DC 20001, from 8:30 a.m. to 4:00 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of national cemeteries, soldiers' lots and plots, the selection of new national cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits.

On May 7, 2014, the Committee will receive updates on the National Cemetery Administration's issues. On the morning of May 8, 2014, the Committee will tour U.S. Soldiers' and Airmens' Home, 3700 North Capitol Street NW., Washington, DC. In the afternoon, the Committee will reconvene in the Board of Veterans Appeals Conference Room to discuss Committee recommendations, future meeting sites, and potential agenda topics for future meetings.

Time will be allocated for receiving public comments at 1:00 p.m. 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-serve 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. Members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Mr. Michael Nacincik, Designated Federal Officer, VA, National Cemetery Administration (43A2), 1100 1st Street NE., Washington, DC 20002, or by email at *michael.n@va.gov.* In the public's communications with the Committee, the writers must identify themselves and state the organizations, associations, or persons they represent. Because the meeting will be in a Government building, anyone attending must be prepared to show a valid photo ID for checking in. Please allow 15 minutes before the meeting begins for this process. Any member of the public wishing to attend the meeting should contact Mr. Nacincik at (202) 632–8013.

Dated: February 18, 2014.

Jelessa Burney,

Committee Management Officer.

[FR Doc. 2014–03761 Filed 2–21–14; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 79 Monday,
No. 36 February 24, 2014

Part II

Department of the Interior
Fish and Wildlife Service

50 CFR Part 17
Endangered and Threatened Wildlife and Plants; Determination of Threatened Species Status for the Georgetown Salamander and Salado Salamander Throughout Their Ranges; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2012–0035; 4500030113]

RIN 1018–AY22

Endangered and Threatened Wildlife and Plants; Determination of Threatened Species Status for the Georgetown Salamander and Salado Salamander Throughout Their Ranges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened status for the Georgetown salamander (*Eurycea naufragia*) and the Salado salamander (*Eurycea chisholmensis*) under the Endangered Species Act of 1973 (Act), as amended. The effect of this regulation is to conserve the two salamander species and their habitats under the Act. This final rule implements the Federal protections provided by the Act for these species. We are also notifying the public that, in addition to this final listing determination, today we publish a proposed special rule under the Act for the Georgetown salamander.

DATES: This rule becomes effective March 26, 2014.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/southwest/es/AustinTexas/*. Comments and materials received, as well as supporting documentation used in preparing this final rule, are available for public inspection, by appointment, during normal business hours, at U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd, Suite 200, Austin, TX 78758; by telephone 512–490–0057; or by facsimile 512–490–0974. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule lists the Georgetown and Salado salamanders as threatened species under the Act.

The basis for our action. Under the Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. We have determined that the Georgetown and Salado salamanders are threatened under the Act due to threats faced by the species both now and in the future from Factors A, D, and E.

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 comment period (see Summary of Comments and Recommendations section below).

Background

Previous Federal Action

The Georgetown salamander was included in 10 Candidate Notices of Review:

- 66 FR 54808, October 30, 2001;
- 67 FR 40657, June 13, 2002;
- 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; and
- 76 FR 66370, October 26, 2011.

In the 2008 review, the listing priority number was lowered from 2 to 8, indicating that threats to the species were imminent, but moderate to low in magnitude. This reduction in listing priority number was primarily due to the land acquisition and conservation efforts of the Williamson County Conservation Foundation. In addition, we were petitioned by the Center for Biological Diversity to list the Georgetown salamander as an endangered species on May 11, 2004, but at that time, it was already a candidate species whose listing was precluded by higher priority actions.

The Salado salamander was included in nine Candidate Notices of Review:

- 67 FR 40657, June 13, 2002;
- 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; and
- 76 FR 66370, October 26, 2011.

The listing priority number has remained at 2 throughout the reviews, indicating that threats to the species were both imminent and high in magnitude. In addition, on May 11, 2004, the Service received a petition from the Center for Biological Diversity to list 225 species we previously had identified as candidates for listing in accordance with section 4 of the Act, including the Salado salamander.

On August 22, 2012, we published a proposed rule to list as endangered and designate critical habitat for the Austin blind salamander (*Eurycea waterlooensis*), Jollyville Plateau salamander (*Eurycea tonkawae*), Georgetown salamander, and Salado salamanders (77 FR 50768). That proposal had a 60-day comment period, ending October 22, 2012. We held a public meeting and hearing in Round Rock, Texas, on September 5, 2012, and a second public meeting and hearing in Austin, Texas, on September 6, 2012. On January 25, 2013, we reopened the public comment period on the August 22, 2012, proposed listing and critical habitat designation; announced the availability of a draft economic analysis; and an amended required determinations section of the proposal (78 FR 5385). On August 20, 2013, we extended the final determination for the Georgetown and Salado salamanders by 6 months due to substantial disagreement regarding: (1) The short- and long-term population trends of these two species; (2) the interpretation of water quality and quantity degradation information as it relates to the status of these two species; and (3) the effectiveness of conservation practices and regulatory mechanisms (78 FR 51129). That comment period closed on September 19, 2013.

Since that time, the City of Georgetown, Texas, prepared and finalized ordinances for the Georgetown salamander. All 17 of the known Georgetown salamander locations are within the City of Georgetown's jurisdiction for residential and commercial development. The enacted

ordinances were directed at alleviating threats to the Georgetown salamander from urban development by requiring geologic assessments prior to construction, establishing occupied site protections through stream buffers, maintaining water quality through best management practices, developing a water quality management plan for the City of Georgetown, and monitoring occupied spring sites by an adaptive management working group. In order to consider the ordinances in our final listing determination, on January 7, 2014 (79 FR 800), we reopened the comment period for 15 days on the proposed listing rule to allow the public an opportunity to provide comment on the application of the City of Georgetown's ordinances to our status determination under section 4(a)(1) of the Act.

This rule constitutes our final determination to list the Georgetown and Salado salamanders as threatened species.

Species Information

Taxonomy

The Georgetown and Salado salamanders are neotenic (do not transform into a terrestrial form) members of the family Plethodontidae. Plethodontid salamanders comprise the largest family of salamanders within the Order Caudata, and are characterized by an absence of lungs (Petranka 1998, pp. 157–158). The Jollyville Plateau (*Eurycea tonkawae*), Georgetown, and Salado salamanders have very similar external morphology. Because of this, they were previously believed to be the same species; however, molecular evidence strongly supports that there is a high level of divergence between the three groups (Chippindale *et al.* 2000, pp. 15–16; Chippindale 2010, p. 2).

Morphological Characteristics

As neotenic salamanders, the Georgetown and Salado salamanders retain external feathery gills and inhabit aquatic habitats (springs, spring-runs, wet caves, and groundwater) throughout their lives (Chippindale *et al.* 2000, p. 1). In other words, these salamanders are aquatic and respire through gills and permeable skin (Duellman and Trueb 1986, p. 217). Also, adult salamanders of these species are about 2 inches (in) (5 centimeters (cm)) long (Chippindale *et al.* 2000, pp. 32–42; Hillis *et al.* 2001, p. 268).

Habitat

Both species inhabit water of high quality with a narrow range of conditions (for example, temperature, pH, and alkalinity) maintained by groundwater from various sources. The Georgetown and Salado salamanders depend on high-quality water in sufficient quantity and quality to meet their life-history requirements for survival, growth, and reproduction. Much of this water is sourced from the Northern Segment of the Edwards Aquifer, which is a karst aquifer characterized by open chambers such as caves, fractures, and other cavities that were formed either directly or indirectly by dissolution of subsurface rock formations. Water for the salamanders is provided by infiltration of surface water through the soil or recharge features (caves, faults, fractures, sinkholes, or other open cavities) into the Edwards Aquifer, which discharges from springs as groundwater (Schram 1995, p. 91).

The Georgetown and Salado salamanders spend varying portions of their life within their surface habitats (the wetted top layer of substrate in or near spring openings and pools as well as spring runs) and subsurface habitats (within caves or other underground areas of the underlying groundwater source). Although surface and subsurface habitats are often discussed separately within this final rule, it is important to note the interconnectedness of these areas. Subsurface habitat does not necessarily refer to an expansive cave underground. Rather, it may be described as the water-filled rock matrix below the stream bed. As such, subsurface habitats are impacted by the same threats that impact surface habitat, as the two exist as a continuum (Bendik 2012, City of Austin (COA), pers. comm.).

Salamanders move an unknown depth into interstitial spaces (empty voids between rocks) within the spring or streambed substrate that provide foraging habitat and protection from predators and drought conditions (Cole 1995, p. 24; Pierce and Wall 2011, pp. 16–17). They may also use deeper passages of the aquifer that connect to the spring opening (Dries 2011, COA, pers. comm.). This behavior makes it difficult to accurately estimate population sizes, as only salamanders on the surface can be regularly monitored. However, techniques have been developed for marking individual salamanders, which allows for better estimating population numbers using "mark and recapture" data analysis techniques. These techniques have been used by the COA on the Jollyville Plateau salamander (Bendik *et al.* 2013, pp. 2–7) and by Dr. Benjamin Pierce at Southwestern University on the Georgetown salamander (Pierce 2011, pp. 5–7).

Range

The habitats of the Georgetown and Salado salamanders occur in the Northern Segment of the Edwards Aquifer. The recharge and contributing zones of this segment of the Edwards Aquifer are found in portions of Travis, Williamson, and Bell Counties, Texas (Jones 2003, p. 3).

Diet

Although we are unaware of detailed dietary studies for Georgetown and Salado salamanders, their diets are presumed to be similar to other *Eurycea* species, which consist of small aquatic invertebrates such as amphipods, copepods, isopods, and insect larvae (COA 2001, pp. 5–6). A stomach content analysis by the City of Austin demonstrated that the Jollyville Plateau salamander preys on varying proportions of aquatic invertebrates, such as ostracods, copepods, mayfly larvae, fly larvae, snails, water mites, aquatic beetles, and stone fly larvae, depending on the location of the site (Bendik 2011b, pers. comm.). The feces of one wild-caught Austin blind salamander (*Eurycea waterlooensis*) contained amphipods, ostracods, copepods, and plant material (Hillis *et al.* 2001, p. 273). Gillespie (2013, pp. 5–9) also found that the diet of the closely related Barton Springs salamanders (*Eurycea sosorum*) consisted primarily of planarians or chironomids (flatworms or nonbiting midge flies), depending on which was more abundant, and amphipods (when planarians and chironomids were rare).

Predation

The Georgetown and Salado salamanders share similar predators, which include centrarchid fish (carnivorous freshwater fish belonging to the sunfish family), crayfish (*Cambarus* sp.), and large aquatic insects (Cole 1995, p. 26; Bowles *et al.* 2006, p. 117; Pierce and Wall 2011, pp. 18–20).

Reproduction

The detection of juveniles in all seasons suggests that reproduction occurs year-round (Bendik 2011a, p. 26; Hillis *et al.* 2001, p. 273). However, juvenile abundance of Georgetown salamanders typically increases in spring and summer, indicating that there may be relatively more reproduction occurring in winter and early spring compared to other seasons (Pierce 2012, pp. 10–11, 18, 20). In addition, most gravid (egg-bearing) females of the Georgetown salamander are found from October through April (Pierce 2012, p. 8; Pierce and McEntire

2013, p. 6). Because eggs are very rarely found on the surface, these salamanders likely deposit their eggs underground for protection (O'Donnell *et al.* 2005, p. 18).

Population Connectivity

More study is needed to determine the nature and extent of the dispersal capabilities of the Georgetown and Salado salamanders. It has been suggested that they may be able to travel some distance through subsurface aquifer conduits. For example, it has been thought that Austin blind salamander can occur underground throughout the entire Barton Springs complex (Dries 2011, COA, pers. comm.). The spring habitats used by salamanders of the Barton Springs complex are not connected on the surface, so the Austin blind salamander population could extend a horizontal distance of at least 984 feet (ft) (300 meters (m)) underground, as this is the approximate distance between the farthest two outlets within the Barton Springs complex known to be occupied by the species. However, a mark-and-recapture study failed to document the movement of endangered Barton Springs salamanders (*Eurycea sosorum*) between any of the springs in the Barton Springs complex (Dries 2012, COA, pers. comm.). This finding could indicate that individual salamanders are not moving the distances between spring openings. Alternatively, this finding could mean that the study simply failed to capture the movement of salamanders. This study has only recently begun and is relatively small in scope.

Due to the similar life history of the Austin blind salamander to the Georgetown and Salado salamanders, it is plausible that populations of these latter two species could also extend 984 ft (300 m) through subterranean habitat, assuming the Austin blind salamander is capable of moving between springs in the Barton Springs complex. However, subsurface movement is likely to be limited by the highly dissected nature of the aquifer system, where spring sites can be separated from other spring sites by large canyons or other physical barriers to movement. Surface movement is similarly inhibited by geologic, hydrologic, physical, and biological barriers (for example, predatory fish commonly found in impoundments along urbanized tributaries (Bendik 2012, COA, pers. comm.). Dye-trace studies have demonstrated that some Jollyville Plateau salamander sites located 2.9 miles (mi) (4.7 kilometers (km)) apart are connected hydrologically (Whitewater Cave to R-Bar-B Spring and Hideaway Cave to R-Bar-B Spring) (Hauwert and Warton 1997, pp. 12–13), but it remains unclear if salamanders are travelling between those sites. Also, in Salado, a large underground conduit that conveys groundwater from the area under the Stagecoach Hotel to Big Boiling Spring is large enough to support salamander movement (Texas Parks and Wildlife Department [TPWD] 2011a, pers. comm.; Mahler 2012, U.S. Geological Survey [USGS], pers. comm.; Yelderman Jr. *et al.* 2013, p. 1). In conclusion, some data indicate that some populations could be connected through subterranean water-filled spaces. However, we are unaware of any information available on the frequency of movements and the actual nature of connectivity among populations.

Population Persistence

A population's persistence (ability to survive and avoid extirpation) is influenced by a population's demographic factors (such as survival and reproductive rates) as well as its environment. The population needs of the Georgetown and Salado salamanders are the factors that provide for a high probability of population persistence over the long term at a given site (for example, low degree of threats and high survival and reproduction rates). We are unaware of detailed studies that describe all of the demographic factors that could affect the population persistence of the Georgetown and Salado salamanders; however, we have assessed their probability of persistence by evaluating environmental factors (threats to their surface habitats) and using the available information we know about the number of salamanders that occur at each site.

To estimate the probability of persistence of each population involves considering the predictable responses of the population to various environmental factors (such as the amount of food available or the presence of a toxic substance), as well as the stochasticity. Stochasticity refers to the random, chance, or probabilistic nature of the demographic and environmental processes (Van Dyke 2008, pp. 217–218). Generally, the larger the population, the more likely it is to survive stochastic events in both demographic and environmental factors (Van Dyke 2008, p. 217). Conversely, the smaller the population, the higher its chances are of extirpation when experiencing this demographic and environmental stochasticity.

Rangewide Needs

We used the conservation principles of redundancy, representation, and resiliency (Shaffer and Stein 2000, pp. 307, 309–310) to better inform our view of what contributes to these species' probability of persistence and how best to conserve them. "Resiliency" is the ability of a species to persist through severe hardships or stochastic events (Tear *et al.* 2005, p. 841). "Redundancy" means a sufficient number of populations to provide a margin of safety to reduce the risk of losing a species or certain representation (variation) within a species, particularly from catastrophic or other events. "Representation" means conserving "some of everything" with regard to genetic and ecological diversity to allow for future adaptation and maintenance of evolutionary potential. Representation can be measured through the breadth of genetic diversity within and among populations and ecological diversity (also called environmental variation or diversity) occupied by populations across the species range.

A variety of factors contribute to a species' resiliency. These can include how sensitive the species is to disturbances or stressors in its environment, how often they reproduce and how many young they have, how specific or narrow their habitat needs are. A species' resiliency can also be affected by the resiliency of individual populations and the number of populations and their distribution across the landscape. Protecting multiple populations and variation of a species across its range may contribute to its resiliency, especially if some populations or habitats are more susceptible or better adapted to certain threats than others (Service and NOAA 2011, p. 76994). The ability of individuals from populations to disperse and recolonize an area that has been extirpated may also influence their resiliency. As population size and habitat quality increase, the population's ability to persist through periodic hardships also increases.

A minimal level of redundancy is essential for long-term viability (Shaffer and Stein 2000, pp. 307, 309–310; Groves *et al.* 2002, p. 506). This provides a margin of safety for a species to withstand catastrophic events (Service and NOAA 2011, p. 76994) by decreasing the chance of any one event affecting the entire species.

Representation and the adaptive capabilities (Service and NOAA 2011, p. 76994) of both the Georgetown and Salado salamanders are also important

for long-term viability. Because a species' genetic makeup is shaped through natural selection by the environments it has experienced (Shaffer and Stein 2000, p. 308), populations should be protected in the array of different environments in which the salamanders occur (surface and subsurface) as a strategy to ensure genetic representation, adaptive capability, and conservation of the species.

To increase the probability of persistence of each species, populations of the Georgetown and Salado salamanders should be conserved in a manner that ensures their variation and representation. This result can be achieved by conserving salamander populations in a diversity of environments (throughout their ranges), including: (1) Both spring and cave locations, (2) habitats with groundwater sources from various aquifers and geologic formations, and (3) at sites with different hydrogeological characteristics, including sites where water flows come from artesian pressure, a perched aquifer, or resurgence through alluvial deposits.

Information for each of the salamander species is discussed in more detail below.

Georgetown Salamander

The Georgetown salamander is characterized by a broad, relatively short head with three pairs of bright-red gills on each side behind the jaws, a rounded and short snout, and large eyes with a gold iris. The upper body is generally grayish with varying patterns of melanophores (cells containing brown or black pigments called melanin) and iridophores (cells filled with iridescent pigments called guanine), while the underside is pale and translucent. The tail tends to be long with poorly developed dorsal and ventral fins that are golden-yellow at the base, cream-colored to translucent toward the outer margin, and mottled with melanophores and iridophores. Unlike the closely related Jollyville Plateau salamander, the Georgetown salamander has a distinct dark border along the lateral margins of the tail fin (Chippindale *et al.* 2000, p. 38). As with the Jollyville Plateau salamander, the Georgetown salamander has recently discovered cave-adapted forms with reduced eyes and pale coloration (TPWD 2011, p. 8).

The Georgetown salamander is known from springs along five tributaries (South, Middle, and North Forks; Cowan Creek; and Berry Creek) to the San Gabriel River (Pierce 2011a, p. 2) and from two caves (aquatic, subterranean locations) in Williamson County, Texas. A groundwater divide between the South Fork of the San Gabriel River and Brushy Creek to the south likely creates the division between the ranges of the Jollyville Plateau and Georgetown salamanders (Williamson County 2008, p. 3–34).

The Service is currently aware of 17 Georgetown salamander localities (15 in or around a spring opening and 2 in caves). We have recently received confirmation that Georgetown salamanders occur at two additional spring sites (Hogg Hollow II Spring and Garey Ranch Spring) (Covey 2013, pers. comm., Covey 2014, pers. comm.) This species has not been observed in more than 20 years at San Gabriel Spring and more than 10 years at Buford Hollow Spring, despite several survey efforts to find it (Chippindale *et al.* 2000, p. 40, Pierce 2011b, c, Southwestern University, pers. comm.). We are unaware of any population surveys in the last 10 years from a number of sites (such as Cedar Breaks Hiking Trail, Shadow Canyon, and Bat Well). Georgetown salamanders continue to be observed at the remaining 12 sites (Avant Spring, Swinbank Spring, Knight Spring, Twin Springs, Cowan Creek Spring, Cedar Hollow Spring, Cobbs Spring/Cobbs Well, Garey Ranch Spring, Hogg Hollow Spring, Hogg Hollow II Spring, Walnut Spring, and Water Tank Cave) (Pierce 2011c, pers. comm.; Gluesenkamp 2011a, TPWD, pers. comm.).

Recent mark-recapture studies suggest a population size of 100 to 200 adult salamanders at Twin Springs, with a similar population estimate at Swinbank Spring (Pierce 2011a, p. 18). Population sizes at other sites are unknown, but visual surface counts result in low numbers (Williamson County 2008, pp. 3–35). In fact, through a review of survey data available in our files and provided during the peer review and public comment period for the proposed rule, we found that the highest numbers observed at each of the other spring sites during the last 10 years is less than 50 (less than 5 salamanders at Avant Spring, Bat Well Cave, Cobbs Spring/CobbsWell, Shadow Canyon, and Walnut Spring; 0 salamanders at Buford Hollow Spring and San Gabriel Spring). There are other springs in Williamson County that may support Georgetown salamander populations, but access to the private lands where these springs are found has not been allowed, which has prevented surveys being done at these sites (Williamson County 2008, pp. 3–35).

Surface-dwelling Georgetown salamanders inhabit spring runs, riffles, and pools with gravel and cobble rock substrates (Pierce *et al.* 2010, pp. 295–296). This species prefers larger cobble and boulders to use as cover (Pierce *et al.* 2010, p. 295). Georgetown salamanders are found within 164 ft (50 m) of a spring opening (Pierce *et al.* 2011a, p. 4), but they are most abundant within the first 16.4 ft (5 m) (Pierce *et al.* 2010, p. 294). However, Jollyville Plateau salamanders, a closely related species, have been found farther from a spring opening in the Bull Creek drainage. A recent study using mark-recapture methods found marked individuals moved up to 262 ft (80 m) both upstream and downstream from the Lanier Spring outlet (Bendik 2013, pers. comm.). This study demonstrates that *Eurycea* salamanders in central Texas can travel greater distances from a discrete spring opening than previously thought, including upstream areas, if suitable habitat is present.

The water chemistry of Georgetown salamander habitat is constant year-round in terms of temperature and dissolved oxygen (Pierce *et al.* 2010, p. 294, Biagas *et al.* 2012, p. 163). Although some reproduction occurs year-round, recent data indicate that Georgetown salamanders breed mostly in winter and early spring (Pierce 2012, p. 8; Pierce and McEntire 2013, p. 6). The cave sites (Bat Well and Water Tank Cave) and the subterranean portion of Cobbs Well where this species is known to occur have been less studied than its surface habitat; therefore, the quality and extent of their subterranean habitats are not well understood.

Salado Salamander

The Salado salamander has reduced eyes compared to other spring-dwelling *Eurycea* species in north-central Texas and lacks well-defined melanophores (pigment cells that contain melanin). It has a relatively long and flat head, and a blunt and rounded snout. The upper body is generally grayish-brown with a slight cinnamon tinge and an irregular pattern of tiny, light flecks. The underside is pale and translucent. The end portion of the tail generally has a well-developed fin on top, but the bottom tail fin is weakly developed (Chippindale *et al.* 2000, p. 42).

The Salado salamander is known historically from four spring sites near the village of Salado, Bell County, Texas: Big Boiling Springs (also known as Main, Salado, or Siren Springs), Lil' Bubbly Springs, Lazy Days Fish Farm Springs (also known as Critchfield Springs), and Robertson Springs (Chippindale *et al.* 2000, p. 43; TPWD 2011, pp. 1–2). These springs bubble up through faults in the Northern Segment

of the Edwards Aquifer and associated limestone along Salado Creek (Brune 1975, p. 31). The four spring sites all contribute to Salado Creek. Under Brune's (1975, p. 5) definition, which identifies springs depending on flow, all sites are considered small (4.5 to 45 gallons per minute [17 to 170 liters per minute]) to medium springs (45 to 449 gallons per minute [170 to 1,1700 liters per minute]). Two other spring sites (Benedict and Anderson Springs) are located downstream from Big Boiling Springs and Robertson Springs. These springs have been surveyed by TPWD periodically since June 2009, but no salamanders have been found (Gluesenkamp 2010, TPWD, pers. comm.). In August 2009, TPWD discovered a population of salamanders at a new site (Solana Spring #1) farther upstream on Salado Creek in Bell County, Texas (TPWD 2011, p. 2). Salado salamanders were recently confirmed at two additional spring sites (Cistern and Hog Hollow Springs) on the Salado Creek in March 2010 (TPWD 2011, p. 2). In total, the Salado salamander is currently known from seven springs. A groundwater divide between Salado Creek and Berry Creek to the south likely creates a division between the ranges of the Georgetown and Salado salamander (Williamson County 2008, p. 3–34).

Of the two salamander species, Salado salamanders have been observed the least. Biologists were unable to observe this species in its type locality (location from which a specimen was first collected and identified as a species) despite over 20 visits to Big Boiling Springs that occurred between 1991 and 1998 (Chippindale *et al.* 2000, p. 43). Likewise, TPWD surveyed this site weekly from June 2009 until May 2010, and found one salamander (Gluesenkamp 2010, TPWD, pers. comm.) at a spring outlet locally referred to as "Lil' Bubbly" located near Big Boiling Springs. One additional unconfirmed sighting of a Salado salamander in Big Boiling Springs was reported in 2008, by a citizen of Salado, Texas. In 2009, TPWD was granted access to Robertson Springs to survey for the Salado salamander. This species was reconfirmed at this location in February 2010 (Gluesenkamp 2010, TPWD, pers. comm.). In the fall of 2012, all of the spring outlets near the Village of Salado were thoroughly searched over a period of two months using a variety of sampling methods, and no Salado salamanders were found (Hibbitts 2013, p. 2). Salado salamander populations appear to be larger at spring sites upstream of the Village of Salado, probably due to the higher quality of the habitat (Gluesenkamp 2011b, TPWD, pers. comm.).

Summary of Comments and Recommendations

We requested comments from the public on the proposed listing for Georgetown salamander and Salado salamander during three comment periods. The first comment period associated with the publication of the proposed rule (77 FR 50768) opened on August 22, 2012, and closed on October 22, 2012, during which we held public meetings and hearings on September 5 and 6, 2012, in Round Rock and Austin, Texas, respectively. We reopened the comment period on the proposed listing rule from January 25, 2013, to March 11, 2013 (78 FR 5385). During our 6-month extension on the final determination for the Georgetown and Salado salamanders, we reopened the comment period from August 20, 2013, to September 19, 2013 (78 FR 51129). On January 7, 2014, we reopened the comment period and announced the availability of the City of Georgetown's final ordinance for water quality and urban development (79 FR 800). We reopened the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the effect of the new city ordinance on the threats to the species. That comment period closed on January 22, 2014. We also contacted appropriate Federal, state, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule during these comment periods.

We received a total of approximately 483 comments during the open comment periods for the proposed listing and critical habitat rules. All substantive information provided during the comment periods has been incorporated directly into the final listing rule for the salamanders and is addressed below in our response to comments. Comments from peer reviewers and state agencies are grouped separately below. Comments received are grouped into general issues specifically relating to the proposed listing for the salamander species. Beyond the comments addressed below, several commenters submitted additional reports and references for our consideration, which were reviewed and incorporated into this final listing rule as appropriate.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from 22 knowledgeable individuals with scientific expertise concerning the hydrology, taxonomy, and ecology that is important to these salamander species. We requested expert opinions from taxonomists specifically to review the proposed rule in light of an unpublished report by Forstner (2012, entire) that questioned the taxonomic validity of the four central Texas salamanders as separate species. We received responses from 13 of the peer reviewers.

During the first comment period, we received some contradictory public comments, and we also found new information relative to the listing determination. For these reasons, we conducted a second peer review on: (1) Salamander demographics and (2) urban development and stream habitat. During this second peer review, we solicited expert opinions from 20 knowledgeable individuals with expertise in the two areas identified above. We received responses from eight peer reviewers during this second review. The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final listing and critical habitat rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments

Taxonomy

(1) *Comment:* Most peer reviewers stated that the best available scientific information was used to develop the proposed rule and the Service's analysis of the available information was scientifically sound. Further, most reviewers stated that our assessment that these are four distinct species and our interpretation of literature addressing threats (including reduced habitat quality due to urbanization and increased impervious cover) to these species was well researched. However, some researchers suggested that further research would strengthen or refine our understanding of these salamanders. For example, one reviewer stated that the Jollyville Plateau salamander taxonomy was supported by weak but suggestive evidence, and therefore, it needed more study. Another reviewer thought there was evidence of missing descendants in the group that included the Jollyville Plateau and Georgetown salamanders in the enzyme analysis presented in the original species descriptions (Chippindale *et al.* 2000, entire).

Our Response: Peer reviewers' comments indicate that we used the best available science, and we correctly

interpreted that science as recognizing the central Texas salamanders as four separate species. In the final listing rule, we continue to recognize the Austin blind, Jollyville Plateau, Georgetown, and Salado salamanders as four distinct and valid species. However, we acknowledge that the understanding of the taxonomy of these salamander species can be strengthened by further research.

(2) *Comment:* Forstner (2012, pp. 3–4) used the size of geographic distributions as part of his argument for the existence of fewer species of *Eurycea* in Texas than are currently recognized. Several peer reviewers commented that they saw no reason for viewing the large number of *Eurycea* species with small distributions in Texas as problematic when compared to the larger distributions of *Eurycea* species outside of Texas. They stated that larger numbers and smaller distributions of Texas *Eurycea* species are to be expected given the isolated spring environments that they inhabit within an arid landscape. Salamander species with very small ranges are common in several families and are usually restricted to island, mountain, or cave habitats.

Our Response: See our response to comment 1.

(3) *Comment:* Forstner (2012, pp. 15–16) used results from Harlan and Zigler (2009), indicating that levels of genetic variation within the eastern species the spotted-tail salamander (*E. lucifuga*) are similar to those among six currently recognized species of Texas *Eurycea*, as part of his argument that there are fewer species in Texas than currently recognized. Several peer reviewers said that these sorts of comparisons can be very misleading in that they fail to take into consideration differences in the ages, effective population sizes, or population structure of the units being compared. The delineation of species should be based on patterns of genetic variation that influence the separation (or lack thereof) of gene pools rather than solely on the magnitude of genetic differences, which can vary widely within and between species groups.

Our Response: See our response to comment 1.

(4) *Comment:* Several peer reviewers stated that the taxonomic tree presented in Forstner (2012, pp. 20, 26) is difficult to evaluate because of the following reasons: (1) No locality information is given for the specimens; (2) it disagrees with all trees in other studies (which seem to be largely congruent with one another), including that in Forstner and McHenry (2010, pp. 13–16) with regard to monophyly (a group in which the members are comprised of all of the descendants from a common ancestor) of several of the currently recognized species; and (3) the tree is only a gene tree, presenting sequence data on a single gene, which provides little or no new information on species relationships of populations.

Our Response: See our response to comment 1.

(5) *Comment:* Peer reviewers generally stated that Forstner (2012, pp. 13–14) incorrectly dismisses morphological data that have been used to recognize some of the Texas *Eurycea* species on the basis that it is prone to convergence (acquisition of the same biological trait in unrelated lineages) and, therefore, misleading. The peer reviewers commented that it is true that similarities in characters associated with cave-dwelling salamanders can be misleading when suggesting that the species possessing those characters are closely related. However, this in no way indicates that the reverse is true; that is, indicating differences in characters is not misleading in identifying separate species.

Our Response: See our response to comment 1.

Impervious Cover

(6) *Comment:* The 10 percent impervious cover threshold may not be protective of salamander habitat based on a study by Coles *et al.* (2012, pp. 4–5), which found a loss of sensitive species due to urbanization and that there was no evidence of a resistance threshold to invertebrates that the salamanders prey upon. A vast amount of literature indicates that 1 to 2 percent impervious cover can cause habitat degradation, and, therefore, the 10 percent threshold for impervious cover will not be protective of these species.

Our Response: We recognize that low levels of impervious cover in a watershed may have impacts on aquatic life, and we have incorporated results of these studies into the final listing rule. However, we are aware of only one peer-reviewed study that examined watershed impervious cover effects on salamanders in central Texas, and this study found impacts on salamander density in watersheds with over 10 percent impervious cover (Bowles *et al.* 2006, pp. 113, 117–118). Because this impervious cover study was done locally, we are using 10 percent as a current reference point to categorize watersheds that are impacted in terms of salamander density.

(7) *Comment:* While the Service's impervious cover analysis assessed impacts on stream flows and surface habitat, it neglected to address impacts over the entire recharge zone of the contributing aquifers on spring flows in salamander habitat. Also, the surface watersheds analyzed in the proposed rule are irrelevant because these salamanders live in cave streams and spring flows that receive groundwater. Without information on the groundwater recharge areas, the rule should be clear that the surface watersheds are only an approximation of what is impacting the subsurface drainage basins.

Our Response: We acknowledge that the impervious cover analysis is limited to impacts on the surface watershed. Because the specific groundwater recharge areas of individual springs are unknown, we cannot accurately assess the current or future impacts on these areas. However, we recognize subsurface flows as another avenue for contaminants to reach the salamander sites, and we tried to make this clearer in the final rule.

(8) *Comment:* Several of the watersheds analyzed for impervious cover in the proposed rule were overestimated. The sub-basins in these larger watersheds need to be analyzed for impervious cover impacts.

Our Response: We have refined our impervious cover analysis in this final listing rule to clarify the surface watersheds of individual spring sites. Our final impervious cover report containing this refined analysis is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2012–0035 and at *http://www.fws.gov/southwest/es/AustinTexas/*.

Threats

(9) *Comment:* One peer reviewer stated that the threat to these species from over collection for scientific purposes may be understated.

Our Response: We have reevaluated the potential threat of overutilization for scientific purposes and have incorporated a discussion of this under Factor B "*Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.*" We recognize that removing individuals from small, localized populations in the wild without any proposed plans or regulations to restrict these activities could increase the population's vulnerability of extinction and decrease its resiliency and ability to withstand stochastic events. However, we do not consider overutilization from collecting salamanders in the wild to be substantial enough to be a threat by itself; however, it may cause population declines and could negatively impact

both salamander species in combination with other threats.

Salamander Demographics

(10) *Comment:* Several peer reviewers agreed that COA's salamander survey data were generally collected and analyzed appropriately and that the results are consistent with the literature on aquatic species' responses to urbanizing watersheds. Three reviewers had some suggestions on how the data analysis could be improved, but they also state that COA's analysis is the best scientific data available, and alternative methods of analysis would not likely change the conclusions.

Our Response: Because the peer reviewers examined COA's salamander demographic data, as well as SWCA Environmental Consultants' analysis of the COA's data, and generally agreed that the COA's data was the best information available, we continue to rely upon this data set in the final listing rule.

(11) *Comment:* Two peer reviewers pointed out that water samples were collected by SWCA during a period of very low rainfall and, therefore, under represent the contribution of water influenced by urban land cover. The single sampling effort of water and sediment at the eight sites referenced in the SWCA report do not compare in scope and magnitude to the extensive studies referenced from the COA. The numerous studies conducted (and referenced) within the known ranges of the salamander species provide scientific support at the appropriate scale for recent and potential habitat degradation due to urbanization. One peer reviewer pointed out that if you sort the spring sites SWCA sampled into "urbanized" and "rural" categories, the urban sites generally have more degraded water quality than the rural sites, in terms of nitrate, nitrite, *Escherichia coli* (*E. coli*) counts, and fecal coliform bacteria counts.

Our Response: The peer reviewers made valid arguments that the SWCA (2012, pp. 21–24) did not present convincing evidence that overall water quality at salamander sites in Williamson County is good or that urbanization is not impacting the water quality at these sites. Water quality monitoring based on one or a few samples is not necessarily reflective of conditions at the site under all circumstances that the salamanders are exposed to over time. Based on this assessment, we continued to rely upon the best scientific information available in published literature that indicate water quality will decline as urbanization within the watershed increases.

(12) *Comment:* The SWCA report indicates that increasing conductivity is related to drought. (Note: Conductivity is a measure of the ability of water to carry an electrical current and can be used to approximate the concentration of dissolved inorganic solids in water that can alter the internal water balance in aquatic organisms, affecting the salamanders' survival. Conductivity levels in the Edwards Aquifer are naturally low. As ion concentrations such as chlorides, sodium, sulfates, and nitrates rise, conductivity will increase. The stability of the measured ions makes conductivity an excellent monitoring tool for assessing the impacts of urbanization to overall water quality. High conductivity has been associated with declining salamander abundance.). While SWCA's report notes lack of rainfall as the dominant factor in increased conductivity, the confounding influence of decreases in infiltration and increases in sources of ions as factors associated with urbanization and changes in water quality in these areas is not addressed by SWCA. Higher conductivity in urban streams is well documented and was a major finding of the U.S. Geological Survey (USGS) urban land use studies (Coles *et al.* 2012). Stream conductivity increased with increasing urban land cover in every metropolitan area studied.

Our Response: While drought may result in increased conductivity, increased conductivity is also a reflection of increased urbanization. We incorporated information from the study by Coles *et al.* (2012) in the final listing rule, and we continue to include conductivity as a measure of water quality.

(13) *Comment:* One peer reviewer stated that SWCA's criticisms of COA's linear regression analysis, general additive model, and population age structure were not relevant and were unsupported. In addition, peer reviewers agreed that COA's mark-recapture estimates are robust and highly likely to be correct. Three peer reviewers agreed that SWCA misrepresented the findings of Luo (2010) and stated that this thesis does not invalidate the findings of COA.

Our Response: Because the peer reviewers examined COA's data, as well as SWCA's analysis of the COA's data, and generally agreed that the COA's data was the best information available, we continue to rely upon this data set in the final listing rule.

(14) *Comment:* One peer reviewer stated that the long-term data collected by the COA on the Jollyville Plateau salamander were simple counts that serve as indices of relative population abundance and are not a measure of absolute abundance. This data assumes that the probability of observing salamanders remains constant over time, season, and among different observers. This assumption is often violated, which results in unknown repercussions on the assessment of population trends. Therefore, the negative trend observed in several sites could be due to a real decrease in population absolute abundance, but could also be related to a decrease in capture probabilities over time (or due to an interaction between these two factors). Absolute population abundance and capture probabilities should be estimated in urban sites using the same methods implemented at rural sites by COA. However, even in the absence of clear evidence of local population declines of Jollyville Plateau salamanders, the proposed rule was correct in its assessment because there is objective evidence that urbanization negatively impacts the density of *Eurycea* salamanders (for example, Barrett *et al.* 2010).

Our Response: We recognize that the long-term survey data of Jollyville Plateau salamanders using simple counts may not give conclusive evidence on the true population status at each site. However, based on the threats and evidence from scientifically peer-reviewed literature, we conclude that the declines in counts seen at urban Jollyville Plateau salamander sites represent the best available information on the status of the Jollyville Plateau salamander and are likely representative of real declines in the population. We expect similar responses by Georgetown and Salado salamanders.

(15) *Comment:* One peer reviewer had similar comments on COA salamander counts and relating them to populations. They stated that the conclusion of a difference in salamander counts between sites with high and low levels of impervious cover is reasonable based on COA's data. However, this conclusion is not about salamander populations, but instead about the counts. The COA's capture-mark-recapture analyses provide strong evidence of both non-detection and substantial temporary emigration, findings consistent with other studies of salamanders in the same family as the Jollyville Plateau salamander. This evidence cautions against any sort of analysis that relies on raw count data to draw inferences about populations.

Our Response: See our response to the previous comment.

(16) *Comment:* The SWCA (2012, pp. 70–76) argues that declines in salamander counts can be attributed to declines in rainfall during the survey period and not watershed urbanization. However, one peer reviewer stated that SWCA provided no statistical analysis to validate this claim and misinterpreted the conclusions of Gillespie (2011) to support their argument. A second peer reviewer agrees that counts of salamanders are related to natural wet and dry cycles but points out that COA has taken this effect into account in their analyses. Another peer reviewer points out that this argument contradicts SWCA's (2012) earlier claim that COA's salamander counts are unreliable data. If the data were unreliable, they probably would not correlate to environmental changes.

Our Response: Although rainfall is undoubtedly important to these strictly aquatic salamander species, the best scientific information suggests that rainfall is not the only factor driving salamander population fluctuations. In the final listing rule, we continue to rely upon this evidence as the best scientific and commercial information available, which suggests that urbanization is also a large factor influencing declines in salamander counts.

Regarding comments from SWCA on the assessment of threats, peer reviewers made the following comments:

(17) *Comment:* SWCA's (2012, pp. 84–85) summary understates what is known about the ecology of *Eurycea* species and makes too strong of a conclusion about the apparent "coexistence with long-standing human development." Human development and urbanization is an incredibly recent stressor in the evolutionary history of the central Texas *Eurycea*, and SWCA's assertion that the *Eurycea* will be "hardy and resilient" to these new stressors is not substantiated with any evidence. In direct contradiction to this assertion, SWCA (2012, p. 83) explains how one population of Georgetown salamanders was extirpated due to municipal groundwater pumping drying the spring.

(18) *Comment:* SWCA (2012, p. 7) states that, "Small population size and restricted distribution are not among the five listing criteria and do not of themselves constitute a reason for considering a species at risk of extinction." To the contrary, even though the salamanders may naturally occur in small isolated populations, small isolated populations and the inability to disperse between springs should be considered under listing criteria E as a natural factor affecting the species' continued existence. In direct contradiction, SWCA (2012, p. 81) later states that, "limited dispersal ability (within a spring) may increase the species' vulnerability as salamanders may not move from one part of the spring run to another when localized habitat loss or degradation occurs." It is well known that small population size and restricted distributions make populations more susceptible to selection or extinction due to stochastic events. Small population size can also affect population density thresholds required for successful mating.

(19) *Comment:* SWCA (2012, p. v) argues that the Jollyville Plateau salamander is not in immediate danger of extinction because, "over 60 of the 90-plus known Jollyville Plateau salamander sites are permanently protected within preserve areas, and 4 of the 16 known Georgetown salamander sites are permanently protected (and establishment of additional protected sites is being considered)." This statement completely ignores the entire aquifer recharge zone, which is not included in critical habitat. Furthermore, analysis of the COA's monitoring and water quality datasets clearly demonstrate that, even within protected areas, there is deterioration of water quality and decrease in population size of salamanders.

(20) *Comment:* SWCA (2012, p. 11) criticizes the Service and the COA for not providing a direct cause and effect relationship between urbanization, nutrient levels, and salamander populations. There is, in fact, a large amount of peer-reviewed literature on the effects of pollutants and deterioration of water quality on sensitive macroinvertebrate species as well as on aquatic amphibians. In the proposed rule, the Service cites just a small sampling of the available literature regarding the effects of pollutants on the physiology and indirect effects of urbanization on aquatic macroinvertebrates and amphibians. In almost all cases, there are synergistic and indirect negative effects on these species that may not have one single direct cause. There is no ecological requirement that any stressor (be it a predator, a pollutant, or a change in the invertebrate community) must be a direct effect to threaten the stability or long-term persistence of a population or species. Indirect effects can be just as important, especially when many are combined.

Our Response to Comments 17–20: We included SWCA's (2012) report as part of the information we asked for peer reviewers to consider. The peer reviewers generally agreed that we used the best information available in our proposed listing rule.

(21) *Comment:* One reviewer stated that, even though there is detectable gene flow between populations, it may be representative of subsurface connections in the past, rather than current population interchange. However, dispersal through the aquifer is possible even though there is currently no evidence that these species migrate. Further, they stated that there is no indication of a metapopulation structure where one population could recolonize another that had gone extinct.

Our Response: We acknowledge that more study is needed to determine the nature and extent of the dispersal capabilities of the Georgetown and Salado salamanders. It is plausible that populations of these species could extend through subterranean habitat. However, subsurface movement is likely to be limited by the highly dissected nature of the aquifer system, where spring sites can be separated from other spring sites by large canyons or other physical barriers to movement. Dye-trace studies have demonstrated that some Jollyville Plateau salamander sites located miles apart are connected hydrologically (Whitewater Cave and Hideaway Cave) (Hauwert and Warton 1997, pp. 12–13), but it remains unclear if salamanders are travelling between those sites. We have some indication that populations could be connected through subterranean water-filled spaces, although we are unaware of any information on the frequency of movements and the actual nature of connectivity among populations.

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 all State agencies and entities in Texas regarding the proposal to list the Georgetown and Salado salamanders are addressed below.

(22) *Comment:* Chippindale (2010) demonstrated that it is possible for Jollyville Plateau salamanders to move between sites in underground conduits. Close genetic affinities between populations in separate watersheds on either side of the RM 620 suggest that these populations may be connected hydrologically. Recent studies (Chippindale 2011 and 2012, in prep) indicate that gene flow among salamander populations follows groundwater flow routes in some cases and that genetic exchange occurs both

horizontally and vertically within an aquifer segment.

Our Response: We agree that genetic evidence suggests subsurface hydrological connectivity exist between sites at some point in time, but we are unable to conclude if this connectivity occurred in the past or if it still occurs today without more hydrogeological studies or direct evidence of salamander migration from mark-recapture studies. Also, one of our peer reviewers stated that this genetic exchange is probably representative of subsurface connection in the past (see comment 21 above).

(23) *Comment:* There were insufficient data to evaluate the long-term flow patterns of the springs and creeks, and the correlation of flow, water quality, habitat, ecology, and community response. Current research in Williamson County indicates that water and sediment quality remain good with no degradation, no elevated levels of toxins, and no harmful residues in known springs.

Our Response: We have reviewed the best available scientific and commercial information in making our final listing determination. We sought comments from independent peer reviewers to ensure that our designation is based on scientifically sound data, assumptions, and analysis. And the peer reviewers stated that our proposed rule was based on the best available scientific information. Additionally, recent research on water quality in Williamson County springs was considered in our listing rule. The peer reviewers agreed that these data did not present convincing evidence that overall water quality at salamander sites in Williamson County is good or that urbanization is not impacting the water quality at these sites (see Comment 19 above).

(24) *Comment:* The listing will have negative impacts to private development and public infrastructure.

Our Response: In accordance with the Act, we cannot consider possible economic impacts in making a listing determination. However, Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. Economic impacts are not taken into consideration as part of listing determinations.

(25) *Comment:* It was suggested that there are adequate regulations in Texas to protect the Georgetown and Salado salamanders and their respective habitats. The overall programs to protect water quality—especially in the watersheds of the Edwards Aquifer region—are more robust and protective than suggested by the Service's descriptions of deficiencies. The Service overlooks the improvements in the State of Texas and local regulatory and incentive programs to protect the Edwards Aquifer and spring-dependent species over the last 20 years. Texas has extensive water quality management and protection programs that operate under state statutes and the Federal Clean Water Act. These programs include: Surface Water Quality Monitoring Program, Clean Rivers Program, Water Quality Standards, Texas Pollutant Discharge Elimination System (TPDES) Stormwater Permitting, Total Maximum Daily Load Program, Nonpoint Source Program, Edwards Aquifer Rules, and Local Ordinances and Rules (San Marcos Ordinance and COA Rules). Continuing efforts at the local, regional, and state level will provide a more focused and efficient approach for protecting these species than Federal listing.

Our Response: Section 4(b)(1)(A) of the Act requires us to take into account those efforts being made by a state or foreign nation, or any political subdivision of a state or foreign nation, to protect such species, and we fully recognize the contributions of the state and local programs. We consider relevant Federal, state, and tribal laws and regulations when developing our threats analysis. Regulatory mechanisms may preclude the need for listing if we determine such mechanisms address the threats to the species such that listing is no longer warranted. However, the best available scientific and commercial data available at the time of the proposed rule supported our initial determination that existing regulations and local ordinances were not adequate to remove all of the threats to the Georgetown and Salado salamanders. Since that time, the City of Georgetown approved a new ordinance designed to reduce the threats to the Georgetown salamander. We have added further discussion of existing regulations and ordinances under Factor D in the final listing rule, and we have considered these new ordinances in our threats analysis below.

(26) *Comment:* The requirement in the Edwards Aquifer Rules for wastewater to be disposed of on the recharge zone by land application is an important and protective practice for aquifer recharge and a sustainable supply of groundwater. Permits for irrigation of wastewater are fully evaluated and conditioned to require suitable vegetation and sufficient acreage to protect water quality.

Our Response: Based on the best available science, wastewater disposal on the recharge zone by land application can contribute to water quality degradation in surface waters and the underground aquifer. Previous studies have demonstrated negative impacts to water quality (increases in nitrate levels) at Barton Springs (Mahler *et al.* 2011, pp. 29–35) and within streams (Ross 2011, pp. 11–21) that were likely associated with the land application of wastewater.

(27) *Comment:* A summary of surface water quality data for streams in the watersheds of the salamanders was provided, and a suggestion was made that sampling data indicated high-quality aquatic life will be maintained despite occasional instances where parameters exceeded criteria or screening levels.

Our Response: In reviewing the 2010 and 2012 Texas Water Quality Integrated Reports prepared by the Texas Commission on Environmental Quality (TCEQ), the Service identified 3 of 7 (43 percent) and 2 of 2 (100 percent) stream segments located within surface drainage areas occupied by the Georgetown and Salado salamanders respectively, which contained measured parameters within water samples that exceeded screening level criteria. These included "screening level concerns" for parameters such as nitrate, dissolved oxygen, and impaired benthic communities. Water quality data collected and summarized in TCEQ reports supports concerns for the potential for water quality degradation within the surface drainage areas occupied by the salamanders. This information is discussed under *Summary of Factors Affecting the Species* in this final listing rule.

(28) *Comment:* The City of Georgetown ordinance reduces the threats to surface habitat conditions and water quality for the Georgetown salamander.

Our response: The Service agrees that the City of Georgetown ordinance will reduce some of the threats to the Georgetown salamander. We have provided a discussion on the effectiveness of the City of Georgetown's ordinance in reducing the threats to the Georgetown salamander under *Summary of Factors Affecting the Species* below in the final listing rule.

Public Comments

Existing Regulatory Mechanisms

(29) *Comment:* The Service improperly discounts the value of

TCEQ's Optional Enhanced Measures by concluding that, because they are optional as to non-listed species, "take" prohibitions do not apply and they are not a regulatory mechanism. However, in February 14, 2005, the Service stated in a letter to Governor Rick Perry that implementation of the Enhanced Measures would result in "no take" of various aquatic species, including the Georgetown salamander.

Our Response: With the listing of the Georgetown and Salado salamanders, the Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.21 and 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. Under the Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378), it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances, but such a permit must be issued for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. The Service's 2005 and 2007 letters to Governor Rick Perry were made prior to listing of the Georgetown and Salado salamanders and do not constitute a permit that allows for take under the Act.

We have changed the wording in the final listing rule to more accurately reflect our opinion that the Optional Enhanced Measures may provide protection to the species, but do not constitute a regulatory mechanism because they are voluntary. These measures were intended to be used for the purpose of avoiding harm to the identified species from water quality impacts, not to address any of the other threats to the Georgetown salamander. TCEQ reported that only 17 Edwards Aquifer applications have been approved under the Optional Enhanced Measures between February 2005 and May 2012, and the majority of these applications were for sites in the vicinity of Dripping Springs, Texas, which would not pertain to the Georgetown salamander (Beatty 2012, TCEQ, pers. comm.).

(30) *Comment:* The Service's February 14, 2005, and September 4, 2007, letters to Governor Rick Perry concurred that non-federal landowners and other non-federal managers using the voluntary measures in Appendix A to the TCEQ technical guidance manual for the Edwards Aquifer Protection Program would have the support of the Service that "no take" under the Act would occur unless projects met specific criteria listed in the letters.

Our Response: See our response to comment (29) above.

(31) *Comment:* Many commenters expressed concern that the Service had not adequately addressed all of the existing regulatory mechanisms and programs that provided protection to the salamanders. In addition, many of the same commenters believed there were adequate state, Federal, and local regulatory mechanisms to protect the salamanders and their aquatic habitats.

Our Response: Section 4(b)(1)(A) of the Act requires us to take into account those efforts being made by a state or foreign nation, or any political subdivision of a state or foreign nation, to protect such species. Under *D. The Inadequacy of Existing Regulatory Mechanisms* in the final listing rule, we provide an analysis of the inadequacy of existing regulatory mechanisms. During the comment period, we sought out and were provided information on several local, state, and Federal regulatory mechanisms that we had not considered when developing the proposed rule. We have reviewed these mechanisms and have included them in our analysis under *D. The Inadequacy of Existing Regulatory Mechanisms* in the final listing rule. In addition, during the 6-month extension the City of Georgetown approved a new ordinance designed to reduce the threats to the Georgetown salamander. We have included this ordinance in our discussion under *Summary of Factors Affecting the Species* below in the final listing rule.

Protections

(32) *Comment:* The Service fails to consider existing local conservation measures and habitat conservation plans (HCPs) that benefit the salamanders. While the salamanders are not covered in most of these HCPs, some commenters believe that measures are in place to mitigate any imminent threats to the species. The Service overlooks permanent conservation actions undertaken by both public and private entities over the last two or more decades. The HCPs and water quality protection standards are sufficient to prevent significant habitat degradation.

Our Response: In the final listing rule, we included a section titled "Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range" that describes existing conservation measures including the regional permit issued to the Williamson County Regional HCP. These conservation efforts and the manner in which they are helping to ameliorate threats to the species were considered in our final listing determination. The Service considered the amount and location of managed open space when analyzing impervious cover levels within each surface watershed (Service 2012, 2013). We also considered preserves when projecting how impervious cover levels within the surface watershed of each spring site would change in the future. These analyses included the benefits from open space as a result of several HCPs, including Buttercup Creek HCP, Balcones Canyonlands Conservation Plan, Lakeline Mall HCP, Concordia HCP, Four Points HCP, and Grandview Hills HCP. Of these, only the Williamson County HCP and Lakeline Mall HCP created open space within the range of the Georgetown salamander (no HCPs have established open space within the range of the Salado salamander). While these conservation lands contribute to the protection of the surface and subsurface watersheds, there are other factors contributing to the decline of the salamander's habitat. Other factors include, but are not limited to: (1) Other areas within the surface watershed that have high levels of impervious cover, which increases the overall percentage of impervious cover within the watershed; (2) potential for groundwater pollution from areas outside of the surface watershed; and (3) disturbance of the surface habitat of the spring sites themselves.

(33) *Comment:* Multiple commenters stated that the Georgetown salamander's known distribution is entirely contained within the jurisdictional boundaries of the Williamson County Regional HCP (RHCP) and is thusly already protected. The RHCP includes provisions for studying the Georgetown salamander and numerous conservation actions benefitting the species. To date, 47 entities have participated in the RHCP and the Williamson County Conservation Fund (WCCF) has permanently preserved 664 ac (269 ha) within 8 preserves. As part of the RHCP, a commitment was made to conduct a 5-year study of the Georgetown salamander and drafting of a

conservation strategy. In 2008, based on these actions, the Service reduced the listing priority category for the Georgetown salamander from a 2 to an 8.

Our Response: We agree with the commenters that the RHCP permit area contains the entire range of the Georgetown salamander, and also includes a portion of the Jollyville Plateau salamander within its permit area. Furthermore, we agree that some of the land preserved by the RHCP as mitigation for the impacts of covered activities on endangered invertebrate species is contributing to protection of a limited amount of salamander habitat. However, the RHCP does not permit "take" of salamanders as covered species, accordingly the permit does not require mitigation for the impacts of the covered actions on any salamander species. The RHCP notes on page 4–19 that actions authorized by the RHCP for covered species ". . . may impact the Georgetown salamander by degrading water quality and quantity in springs and streams in the watersheds where the species occurs." One of the RHCP's biological goals is to help conserve the salamanders by studying the Georgetown salamander's status, distribution, and conservation needs. In addition to a 5-year Georgetown salamander research and monitoring program, Williamson County committed to drafting a conservation strategy for the species, based on initial findings of the research, and coordinating a public education and outreach program. While this research to date has been incorporated in the final listing rule, the best available information supports our conclusion that the threats to the species are not ameliorated by the RHCP.

The listing priority number was lowered from a 2 to an 8 for the Georgetown salamander based on conservation actions by WCCF in 2008 (73 FR 75176, December 10, 2008). A listing priority of 8 indicates that there are imminent threats to the species, but the magnitude of these imminent threats is moderate to low.

(34) *Comment:* The proposed rule directly contradicts the Service's recent policy titled Expanding Incentives for Voluntary Conservation Actions Under the Act (77 FR 15352, March 15, 2012), which concerns the encouragement of voluntary conservation actions for non-listed species and is available at *http://www.gpo.gov/fdsys/pkg/FR-2012-03-15/pdf/2012-6221.pdf.*

Our Response: The commenter did not specify how the proposed rule contradicts the Service's recent policy pronouncements concerning the encouragement of voluntary conservation actions for non-listed species. The recent policy pronouncements specifically state that voluntary conservation actions undertaken are unlikely to be sufficient to affect the need to list the species. However, if the species is listed and voluntary conservation actions are implemented, as outlined in policy pronouncements, the Service can provide assurances that if the conditions of a conservation agreement are met, the landowner will not be asked to do more, commit more resources, or be subject to further land use restrictions than agreed upon. We may also allow a prescribed level of incidental take by the landowner.

(35) *Comment:* Existing protective measures and current land-use conditions in the contributing zone of the Northern Segment of the Edwards Aquifer negate the justification for the proposed listing of the Salado salamander. It was the understanding of Bell County that the development of comprehensive conservation strategies or plans to protect species would be based on additional research that will be conducted in a cooperative effort involving state and Federal environmental agencies and local stakeholders. Consistent with the guidance of agency officials, Bell County and their partners held public hearings and entered into contractual agreements with experts. Fieldwork related to those studies is about to commence.

Our Response: The Service appreciates the efforts of Bell County and their partners to conduct research and collect additional data to support the conservation of the Salado salamander. The Service is required to make a determination on the status of the Salado salamander based on the best available science at the time we make our listing decision. The Service looks forward to continuing to work with Bell County and all of our other partners to further the conservation of the Salado salamander. We anticipate the additional research and information being gathered by Bell County and others will be helpful in refining conservation strategies and adapting management for these species, based on this new information.

(36) *Comment:* The proposed rule cites the vested rights statute found in Chapter 245, Texas Local Government Code as a weakness in local and state regulations. Chapter 245 does not apply to state regulations. Under Chapter 245, a "regulatory agency" is defined as a political subdivision of the state such as a county, school district or municipality (Section 245.001(2) & (4), Texas Local Government Code). The Edwards Rules for the Contributing Zone revised in 1999 had a very narrow grandfathering provision from the new regulations: A project did not have to comply with the new rules if the project had all of the permits necessary to begin construction on June 1, 1999, and construction began by December 1, 1999. No projects can possibly exist that are grandfathered from the Edwards Rules for the contributing zone of the Edwards Aquifer.

Our Response: We have revised this discussion in this final rule, as appropriate.

Listing Process and Policy

(37) *Comment:* Reducing the Listing Priority Number of the Georgetown salamander from 2 to 8 indicates no imminent threat to the species.

Our Response: In the 2008 candidate notice of review, the listing priority number was lowered from 2 to 8. However, a listing priority of 8 indicates that there are imminent threats to the species, but the magnitude of these imminent threats is moderate to low.

(38) *Comment:* The Service is pushing these listings because of the legal settlement and not basing its decision on science and the reality of the existing salamander populations.

Our Response: We are required by court-approved settlement agreements to remove the Georgetown and Salado salamanders from the candidate list within a specified timeframe. To remove these salamanders from the candidate list means to propose them for listing as endangered or threatened or to prepare a not-warranted finding. The Act requires us to determine whether a species warrants listing based on our assessment of the five listing factors described in the Act using the best available scientific and commercial information. We already determined, prior to the court settlement agreement, that the Georgetown and Salado salamanders warranted listing under the Act, but were precluded by the necessity to commit limited funds and staff to complete higher priority species actions. These salamanders have been included in our annual Candidate Notices of Review for multiple years, during which time scientific literature and data have and continue to indicate that these salamanders are detrimentally impacted by ongoing threats, and we continued to find that listing each species was warranted but precluded. While the settlement agreement has set a court-ordered timeline for rendering our final decision, our determination is still guided by the Act and its

implementing regulations considering the five listing factors and using the best available scientific and commercial information.

(39) *Comment:* Commenters requested that the Service extend the comment period for another 45 days after the first comment period. The commenters were concerned about the length of the proposed listing, which is very dense and fills 88 pages in the **Federal Register**, and that the public hearing was held only 2 weeks after the proposed rule was published. Commenters do not consider this enough time to read and digest how the Service is basing a listing decision that will have serious consequences for Williamson County. Furthermore, the 60-day comment period does not give the public enough time to submit written comments to such a large proposed rule.

Our Response: The initial comment period for the proposed listing and critical habitat designation consisted of 60 days, beginning August 22, 2012, and ending on October 22, 2012. We reopened the comment period for an additional 45 days, beginning on January 25, 2013, and ending on March 11, 2013. During our 6-month extension on the final determination for the Georgetown and Salado salamanders, we reopened the comment period from August 20, 2013, to September 19, 2013 (78 FR 51129). On January 7, 2014, we reopened the comment period and announced the availability of the City of Georgetown's final ordinance for water quality and urban development (79 FR 800). We reopened the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the effect of the new city ordinances on threats to the Georgetown salamander. That comment period closed on January 22, 2014. We consider the comment periods described above an adequate opportunity for public comment.

(40) *Comment:* The Service has openly disregarded a contractual agreement (RHCP) with Williamson County that provided for additional study, violating mandatory process under the Act. It was our understanding that the development of comprehensive conservation strategies or plans to protect the species would be based on additional research, which would be conducted in a cooperative effort involving state and Federal environmental agencies and local stakeholders. Williamson County has committed funds and entered into contractual agreements with respected experts to perform these additional baseline studies. The Service has violated a contractual agreement under the Act.

Our Response: The RHCP is not a contract. By moving forward with a listing decision for the Georgetown and Salado salamanders, the Service has not violated any mandatory process under the Act or any contractual agreement with Williamson County. The RHCP was established in 2008 to provide incidental take coverage for the federally listed golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapilla*), Bone Cave harvestman (*Texella reyesi*), and Coffin Cave mold beetle (*Batrisodes texanus*). A number of conservation actions for the Georgetown salamander were planned in the RHCP, but the Georgetown salamander is not a covered species under the RHCP. One of the conservation actions is for WCCF to conduct a 5-year research and monitoring study for the Georgetown salamander, which was planned with the intention of preparing a Candidate Conservation Agreement with Assurances if the species was still a candidate at the end of the study. The RHCP does not include an agreement between the Service and Williamson County to delay the listing of the Georgetown salamander until the study is completed.

(41) *Comment:* One commenter expressed concern with the use of "unpublished" data in the proposed rule. It is important that the Service takes the necessary steps to ensure all data used in the listing and critical habitat designations are reliable, verifiable, and peer reviewed, as required by President Obama's 2009 directive for transparency and open government. In December of 2009, the Office of Management and Budget (OMB) issued clarification on the presentation and substance of data used by Federal agencies and required in its Information Quality Guidelines. Additionally under the OMB guidelines, all information disseminated by Federal agencies must meet the standard of "objectivity." Additionally, relying on older studies instead of newer ones conflicts with the Information Quality Guidelines.

Our Response: Our use of unpublished information and data does not contravene the transparency and open government directive. Under the Act, we are obligated to use the best available scientific and commercial information, including results from surveys, reports by scientists and biological consultants, various models, and expert opinion from biologists with extensive experience studying the salamanders and their habitat, whether published or unpublished. One element of the transparency and open government directive encourages executive departments and agencies to make information about operations and decisions readily available to the public. Supporting documentation used to prepare the proposed and final rules is available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd., Suite 200, Austin, TX 78758.

Peer Review Process

(42) *Comment:* One commenter requested that the Service make the peer review process as transparent and objective as possible. The Service should make available the process and criteria used to identify peer reviewers. It is not appropriate for the Service to choose the peer review experts. For the peer review to be credible, the entire process including the selection of reviewers must be managed by an independent and objective party. We recommend that the peer review plan identify at least two peer reviewers per scientific discipline. Further, the peer reviewers should be identified.

Our Response: To ensure the quality and credibility of the scientific information we use to make decisions, we have implemented a formal peer review process. Through this peer review process, 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 these salamanders, we posted a peer review plan on our Web site, which included information about the process and criteria used for selecting peer reviewers, and we posted the peer reviews on *http://www.regulations.gov.*

In regard to transparency, the OMB and Service's peer review guidelines mandate that we not conduct anonymous peer reviews. The guidelines state that we advise reviewers that their reviews, including their names and affiliations, and how we respond to their comments will be included in the official record for review, and once all the reviews are completed, their reviews will be available to the public. We followed the policies and standards for conducting

peer reviews as part of this rulemaking process.

(43) *Comment:* The results of the peer review process should be available to the public for review and comment well before the end of the public comment period on the listing decision. Will the public have an opportunity to participate in the peer review process?

Response: As noted above, OMB and the Service's guidelines state that we make available to the public the peer reviewers' information, reviews, and how we respond to their comments once all reviews are completed. The peer reviews are completed at the time the last public comment period closes, and our responses to their comments are completed at the time the final listing decision is published in the **Federal Register**. All peer review process information is available upon request at this time and is available from the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd, Suite 200, Austin, TX 78758. In addition, the peer reviews have been posted at *http://www.regulations.gov.*

(44) *Comment:* New information has been provided during the comment period. The generalized opinions of the initial peer reviewers regarding the proposed rule having the best available science is largely negated by the significant quantity of materials submitted by the public during the first two comment periods. In other words, the large quantity of additional information submitted into the record clearly demonstrates that the proposed rule did not reflect the best available scientific and commercial data. The final listing decision should be peer reviewed.

Response: During the second public comment period, we asked peer reviewers to comment on new and substantial information that we received during the first comment period. We did not receive any new information during the second comment period that we felt rose to the level of needing peer review. Furthermore, as part of our peer review process, we asked peer reviewers not to provide comments or recommendations on the listing decision. Peer reviewers were asked to comment specifically on the quality of information and analyses used or relied on in the reviewed documents. In addition, they were asked to identify oversights, omissions, and inconsistencies; provide advice on reasonableness of judgments made from the scientific evidence; ensure that scientific uncertainties are clearly identified and characterized and that potential implications of uncertainties for the technical conclusions drawn are clear; and provide advice on the overall strengths and limitations of the scientific data used in the document.

(45) *Comment:* One commenter requested a peer review of the four central Texas salamanders' taxonomy and recommended that, to avoid any potential bias, peer reviewers not be from Texas or be authors or contributors of any works that the Service has or is relying upon to diagnose the four central Texas salamanders as four distinct species. This commenter also provided a list of four recommended scientists for the peer review on taxonomy.

Our Response: We requested peer reviews of the central Texas salamander taxonomy from 11 scientific experts in this field. Because we considered the 4 recommended scientists to be qualified as independent experts, we included the 4 experts recommended by the commenter among the 11. Eight scientists responded to our request, and all eight scientists agreed with our recognition of four separate and distinct salamander species, as described in the *Species Information* section of the proposed and final listing rules. The commenter also provided an unpublished paper offering an alternative interpretation of the taxonomy of central Texas salamanders (Forstner 2012, entire), and that information was also provided to peer reviewers. We included two authors of the original species descriptions of the four central Texas salamander species to give them an opportunity to respond to criticisms of their work and so that we could fully understand the taxonomic questions about these species.

(46) *Comment:* One commenter requested a revision to the peer review plan to clarify whether it is a review of non-influential information or influential information.

Our Response: We see no benefit from revising the peer review plan to clarify whether the review was of non-influential or influential information. The Service's "Information Quality Guidelines and Peer Review," revised June 2012, defines influential information as information that we can reasonably determine the dissemination of which will have or does have a clear and substantial impact on important policy or private sector decisions. Also, we are authorized to define influential in ways appropriate for us, given the nature and multiplicity of issues for which we are responsible. As a general rule, we consider an impact clear and substantial when a specific piece of information is a principal basis for our position.

(47) *Comment:* One commenter requested clarification on what type of peer review was intended. Was it a panel review or individual review? Did peer reviewers operate in isolation to generate individual reports or did they work collaboratively to generate a single peer review document.

Our Response: Peer reviews were requested individually. Each peer reviewer who responded generated independent comments.

(48) *Comment:* It does not seem appropriate to ask peer reviewers, who apparently do not have direct expertise on *Eurycea* or central Texas ecological systems, to provide advice on reasonableness of judgments made from generic statements or hyper-extrapolations from studies on other species. The peer review plan states that reviewers will have expertise in invertebrate ecology, conservation biology, or desert spring ecology. The disciplines of invertebrate ecology and desert spring ecology do not have any apparent relevance to the salamanders in question. The *Eurycea* are vertebrate species that spend nearly all of their life cycle underground. Central Texas is not a desert. The peer reviewers should have expertise in amphibian ecology and familiarity with how karst hydrogeology operates.

Our Response: The peer review plan stated that we sought out peer reviewers with expertise in invertebrate ecology or desert spring ecology, but this was an error which was corrected in our correspondence with the peer reviewers. In the first comment period, we asked and received peer reviews from independent scientists with local and non-local expertise in amphibian ecology, amphibian taxonomy, and karst hydrology. In the second comment period, we sought out peer reviewers with local and non-local expertise in population ecology and watershed urbanization.

(49) *Comment:* The peer review plan appears to ask peer reviewers to consider only the scientific information reviewed by the Service. The plan should include the question of whether the scientific information reviewed constitutes the best available scientific and commercial data. The plan should be revised to clarify that the peer reviewers are not limited to the scientific information in the Service's administrative record.

Our Response: The peer review plan states that we may ask peer reviewers to identify oversights and omissions of information as well as to consider the information reviewed by the Service. When we sent out letters to peer reviewers asking for their review, we specifically asked them to identify any oversights, omissions, and

inconsistencies with the information we presented in the proposed rule.

(50) *Comment:* The proposed peer review plan falls far short of the OMB Guidelines (2004 Office of Management and Budget promulgated its Final Information Quality Bulletin for Peer Review).

Our Response: This commenter failed to tell us how the plan falls short of the OMB Guidelines. We adhered to the guidelines set forth for Federal agencies and in OMB's "Final Information Quality Bulletin for Peer Review," released December 16, 2004, and the Service's "Information Quality Guidelines and Peer Review," revised June 2012. While the draft peer review plan had some errors, we believe we satisfied the intent of the guidelines and that the errors did not affect the rigor of the actual peer review that occurred.

(51) *Comment:* One commenter stated that an additional peer review plan was not made available to the public for the second peer review.

Our Response: We followed our peer review policy to prepare a peer review plan for our proposed rules, and we made the plan available for public review on our Web site. Both of our peer review processes followed this plan.

Salamander Populations

(52) *Comment:* A recent study by SWCA proposes that the COA's data are inadequate to assess salamander population trends and is not representative of environmental and population control factors (such as seasonal rainfall and drought). The study also states that there is very little evidence linking increased development to declining water quality.

Our Response: We have reviewed the report by SWCA and COA's data and determined that it is reasonable to conclude that a link between increased urban development, declining water quality, and declining salamander populations exists for these species. Peer reviewers have also generally agreed with this assessment.

(53) *Comment:* The WCCF has been conducting research on salamanders of the Northern Edwards Aquifer since 2008. This included population monitoring at two Georgetown salamander sites and recently expanded to include water quality testing in both Georgetown salamander and Jollyville Plateau salamander ranges. Data indicate that populations are stable and healthy and water quality at Williamson County springs is excellent.

Our Response: We acknowledge that two Georgetown salamander sites in Williamson County have been regularly monitored since 2008, and we have considered this data in the final listing rule. However, water quality testing by WCCF at salamander sites has only recently been initiated, and no conclusions regarding long-term trends in water quality at Georgetown salamander sites can be made. Furthermore, this salamander count dataset has not been conducted over a long enough time period to conclude that the salamander populations are stable and healthy at the two monitored sites.

(54) *Comment:* Specifically related to the Salado salamander, we note an apparent inconsistency in the proposed rule related to the locations of specific springs where the animal has been found. The section on impervious cover states, "The Salado salamander occurs within two watersheds (Buttermilk Creek and Mustang Creek)." In fact, to our knowledge the animal has been found in neither. The section discussing the specific springs identifies occurrences in springs in the Rumsey Creek and Salado Creek watersheds. The latter section appears to be correct.

Our Response: Buttermilk Creek and Mustang Creek are the names of the 12-digit Hydrologic Unit Codes we used in our initial impervious cover analysis. They are larger watersheds that contain the smaller watersheds of Rumsey Creek and Salado Creek, which contain the springs occupied by the Salado salamander.

(55) *Comment:* The Service has no evidence that shows what the Georgetown salamander population is, or what a healthy average population would look like.

Our Response: Although population data are lacking for most Georgetown salamander sites, population estimates of Georgetown salamanders have recently been completed at Twin Springs (118–216 adults) and Swinbank Spring (102–137 adults) (Pierce 2011a, p. 12). Part of what constitutes a healthy population is that threats have been removed or minimized. In terms of population size, it is unknown how many individuals are needed within a population to ensure its persistence over the long term.

(56) *Comment:* Given the central Texas climate and the general geology and hydrology of the Edwards Limestone formation north of the Colorado River, the description "surface-dwelling" or "surface residing" overstates the extent and frequency that the Georgetown and Salado salamanders utilize surface water. The phrase "surface dwelling population" in the proposed rule appears to be based on two undisclosed and questionable assumptions pertaining to Georgetown and Salado salamanders: (1) There are a sufficient number of these salamanders that have surface water available to them for sufficient periods of times so that the group could be called a "population"; and (2) there are surface-dwelling Jollyville Plateau salamander populations that are distinct from subsurface dwelling Jollyville Plateau salamander populations. Neither assumption can be correct unless the surface area is within a spring-fed impoundment that maintains water for a significant portion of a year.

Our Response: In the proposed rule, we did not mean to imply or assume that "surface-dwelling populations" are restricted to surface habitat only. In fact, we made clear in the proposed rule that these populations need access to subsurface habitat. In addition, we also considered the morphology of these species in our description of their habitat use. The morphology of the Georgetown salamander and Salado salamanders serve as indicators of surface and subsurface habitat use. The Georgetown salamander surface populations have large, well-developed eyes. In addition, the Georgetown salamander has yellowish-orange tails, bright-red gills, and varying patterns of melanophores. The subterranean populations of the Georgetown salamander have reduced eyes and dullness of color, indicating adaptation to subsurface habitat. The Salado salamander has reduced eyes and lacks well-defined melanophores in comparison to other surface-dwelling *Eurycea*. However, they do possess developed eyes and some pigmentation, indicating some use of surface habitat.

(57) *Comment:* There may be uncertainty as to the number of Salado salamander populations, and how prolific the subsurface populations are. However, it is apparent that the species has historically been and currently is extremely difficult to observe and collect during low to average spring flows at the Salado Springs complex and more abundant and readily observable during above-average spring flows at the Salado Springs complex. The exception has been the spring outlets located in the Edwards outcrop upstream of the Salado Springs complex, where the salamander has been observed regularly during below-average spring flow. The consistency in observations from species surveys over the past 60 or more years is important: they do not reflect a trend downward in species population.

Our Response: We agree that the available data on Salado salamander observations do not reflect a declining trend over time. However, these data are

also neither quantitative nor consistent enough to conclude that any Salado salamander population has been stable over time. The fact that Salado salamanders are rarely found at sites near the Village of Salado during periods of low flow suggests that this species is sensitive to threats such as drought and urbanization, as has been demonstrated for several closely related salamander species.

Threats

(58) *Comment:* The Service appears reluctant to distinguish between what are normal, baseline physical conditions (climate, geology, and hydrology) found in central Texas and those factors outside of the norm that might actually threaten the survival of the salamander species. Cyclical droughts and regular flood events are part of the normal central Texas climate and have been for thousands of years. The Service appears very tentative about accepting the obvious adaptive behaviors of the salamanders to survive floods and droughts.

Our Response: The final listing rule acknowledges that drought conditions are common to the region, and the ability to retreat underground may be an evolutionary adaptation to such natural conditions (Bendik 2011a, pp. 31–32). However, it is important to note that although salamanders may survive a drought by retreating underground, this does not necessarily mean they are resilient to future worsening drought conditions in combination with other environmental stressors. For example, climate change, groundwater pumping, decreased water infiltration to the aquifer, potential increases in saline water encroachments in the aquifer, and increased competition for spaces and resources underground all may negatively affect their habitat (COA 2006, pp. 46–47; TPWD 2011, pp. 4–5; Bendik 2011a, p. 31; Miller *et al.* 2007; p. 74; Schueler 1991, p. 114). These factors may exacerbate drought conditions to the point where salamanders cannot survive. In addition, we recognize threats to surface habitat at a given site may not extirpate populations of these salamander species in the short term, but this type of habitat degradation may severely limit population growth and increase a population's overall risk of extirpation from cumulative impacts of other stressors occurring in the surface watershed of a spring.

(59) *Comment:* There is no proof that Salado salamanders surfacing from the aquifer after spending lengthy periods subsurface are emaciated, or otherwise in a weakened state, or that they were unable to reproduce.

Our Response: No studies have examined the biological effects of drought on Salado salamanders. However, a study on the closely related Jollyville Plateau salamander has documented decreases in body length following periods of drought (Bendik and Gluesenkamp 2013, pp. 3–4). In the absence of species-specific information, we conclude that the Salado salamander responds to drought in a similar way.

(60) *Comment:* In the proposed rule, the Service states that "Central Texas salamanders are particularly vulnerable to contaminants, because they have evolved under very stable environmental conditions." The cycle of droughts and pulse rain events is certainly not a stable environmental condition. Drought is a stressor on all life forms in central Texas and necessitates species adaptability to survive.

Our Response: This statement in the proposed rule refers to the presence of contaminants in the salamanders' habitat, not the occurrence of drought. Contaminants are a relatively new stressor for these species that has been introduced by human activity.

(61) *Comment:* The watershed recharging the Salado salamander occupied springs is largely undeveloped and little urbanization is occurring. There is no evidence that rapid urbanization is likely to occur in the foreseeable future in these watersheds due to lack of infrastructure. The population estimates in the proposed rule are based on countywide figures for Bell and Williamson Counties. Countywide figures grossly overstate the amount of population growth occurring in these specific watersheds. This can be confirmed by a review of census tracts data. Likewise, a significant portion of northwestern Williamson County outside of the jurisdiction of the main cities is undeveloped and lacking in available utilities to support dense development.

Our Response: The proposed rule cites projected population growth and expected increases in demand for residential development, groundwater pumping, infrastructure, and other municipal services as a threat to the species throughout the Edwards Aquifer, including areas of Williamson and Bell Counties in the Northern Segment of the Aquifer. The estimates of growth came from multiple sources, including the Texas Water Development Board, the U.S. Census Bureau, and the Texas State Data Center. We are not aware of census tract data that project future populations at a scale lower than the county level. We maintain our conclusion that the Georgetown and Salado salamanders warrant listing partly due to projected human growth throughout their range.

(62) *Comment:* The average annual low flow of the Salado Springs complex was approximately 4.6 cubic feet per second (cfs), which occurred during the extreme drought in the mid-1950s. The low-end annual average range of spring flows from late 2011 to date exceeds and is nearly double that of the 4.6 cfs benchmark, even though the south central Texas region has been experiencing one of the worst droughts in recorded history. Clearwater Underground Water Conservation District's (CUWCD) records reflect that pumping from the Edwards aquifer within Bell County during the summer months actually decreased from 2011 to 2012 to 2013, which we believe is attributable to implementation of the drought management program. Thus, it is apparent that drought conditions, rather than some human agency, are responsible for low spring flows and that, possibly, groundwater district regulation of pumping could be having a positive effect on flows during the 2011 to 2013 drought conditions.

Our Response: We acknowledge that drought has likely influenced spring flow for Salado salamander habitat more than groundwater pumping. Under Factor D of the final listing rule, we also acknowledge the water quantity protections afforded to Salado salamander habitat by the CUWCD. However, even under these protections, springs occupied by Salado salamanders are known to go dry for periods of time. The Service recognizes the desired future condition adopted by the CUWCD as a valuable tool for protecting groundwater; however, it is not adequate to ensure spring flow at all sites occupied by the Salado salamander.

(63) *Comment:* In regards to the Salado salamander, threats under Factor A are excessively vague and rest on certain assumptions which are clearly false. The Salado salamander has been found in springs in several locations and likely exists at others and the proposed designation of critical habitat treats every location where *Eurycea* has been identified the same. In fact, while the hydrogeologic context is generally consistent across the region, specific structural features may vary widely from one location to the next, so protective measures appropriate for one location may not be appropriate elsewhere. We can divide the springs into two basic types: (1) The Village of Salado springs, which represent the

ultimate outflow from the system as a whole, and (2) numerous lesser springs occurring at various locations up in the recharge (outcrop) zone. In either case, the springs are found in areas where extensive, structural disturbance is unlikely and where no identifiable threats related to possible changes in land use are anticipated at this time.

Because the major spring flows are moving through confined segments, bounded on their upper limit by an impervious unit, they are effectively insulated and protected from infiltration in the near vicinity of the springs. This is supported by the discussion of water temperature presented in the recently released TPWD report, A Biological and Hydrological Assessment of the Salado Springs Complex, Bell County, Texas, August 2012. Normal human activities, including typical construction, in near proximity to the springs, present little threat to the aquifer or the outflow from it. Further, the surrounding area has been fully developed for over 150 years. The lesser springs up in the recharge zone enjoy certain protections as well. Without exception, these are located in undeveloped settings that may be described as pristine. Specifically, the springs where the Salado salamander has been found are on a single, award-winning ranch, which constitutes one of the largest single land holdings in Bell County. The owners of this property have been widely recognized for their committed stewardship of the land. The ranch is operated under a management model that emphasizes low-impact grazing and recreational hunting. Habitat preservation and improvement are central components in this management model.

Our Response: While it is possible that Salado salamanders exist at other unknown spring locations, our evaluation of the status of the species is limited to sites known to be occupied by the species at the time of the proposed listing. We agree that many site-specific variables affect both the degree of threat and potential for habitat modification at springs occupied by Salado salamanders, including land ownership, land uses in the immediate watershed, land uses in recharge areas, spring flow, level of recreation and physical disturbance, water quality, and other factors. Although we recognize the level of threat will vary across the range of the species, and recognize the strong stewardship of many landowners, we conclude that Factor A is neither vague nor based on false assumptions due to documented modifications to habitat within the very restricted range of the Salado salamander. Although construction near spring outlets may have relatively little impact on the entire aquifer, this type of development may likely have large impacts on the surface habitat of the spring. The springs within the Village of Salado have had heavy modification of the surface habitat, as described under Factor A of the proposed rule. Despite numerous field surveys over the last decade, Salado salamanders in many springs near well-developed areas, such as Big Boiling Spring, are rarely found. We consider habitat modification a significant threat, both now and in the future, due to projected growth, current land use practices, threats to water quality and quantity, as well as historical and ongoing physical disturbance to spring habitat.

(64) *Comment:* Through measuring water-borne stress hormones, researchers found that salamanders from urban sites had significantly higher corticosterone stress hormone levels than salamanders from rural sites. This finding serves as evidence that chronic stress can occur as development encroaches upon these spring habitats.

Our Response: We are aware that researchers are pursuing this relatively new approach to evaluate salamander health based on differences in stress hormones between salamanders from urban and non-urban sites. Stress levels that are elevated due to natural or unnatural (that is, anthropogenic) environmental stressors can affect an organism's ability to meet its life-history requirements, including adequate foraging, predator avoidance, and reproductive success. We encourage continued development of this and other non-lethal scientific methods to improve our understanding of salamander health and habitat quality.

(65) *Comment:* Information in the proposed rule does not discern whether water quality degradation is due to development or natural variation in flood and rainfall events. Fundamental differences in surface counts of salamanders between sites are due to a natural dynamic of an extended period of above-average rainfall followed by recent drought.

Our Response: We recognize that aquatic-dependent organisms such as the Georgetown and Salado salamanders will respond to local weather conditions; however, the best available science indicates that rainfall alone does not explain lower salamander densities at urban sites monitored by the COA. Furthermore, there is scientific consensus among numerous studies on the impacts of urbanization that conclude species diversity and abundance consistently declines with increasing levels of development, as described under Factor A in the final listing rule.

(66) *Comment:* Studies carried out by the Williamson County Conservation Foundation (WCCF) do not support the Service's assertions that habitat for the salamanders is threatened by declining water quality and quantity. New information from water quality studies performed at nine Georgetown and Jollyville Plateau salamander sites indicate that aquifer water is remarkably clean and that water quality protection standards already in place throughout the county are working.

Our Response: The listing process requires the Service to consider both ongoing and future threats to the species. Williamson County has yet to experience the same level of population growth as Travis County, but is projected to have continued rapid growth in the future. Therefore, it is not surprising that some areas of Williamson County may exhibit good water quality, because threats to the Georgetown salamander or its habitat are primarily from future development. However, our peer reviewers concluded that the water quality data referenced by the commenter is not enough evidence to conclude that water quality at salamander sites in Williamson County is sufficient (see Comment 19 above). To fully assess the status of salamander populations and water quality requires long-term monitoring data. The water samples collected by the WCCF were comprised of a single sample event consisting of grab samples, so they offer limited insight into long-term trends in water quality (see Comment 19 above). The best available science indicates that water quality and species diversity consistently declines with increasing levels of urban development.

Hydrology

(67) *Comment:* The Service homogenizes ecosystem characteristics across the Austin blind, Georgetown, Jollyville Plateau, and Salado salamanders. The proposed rule often assumes that the "surface habitat" characteristics of the Barton Springs salamander and Austin blind salamander (year-round surface water in manmade impoundments) apply to the Salado, Jollyville Plateau, and Georgetown salamanders, which live in very different geologic and hydrologic habitat. The Georgetown and Salado salamanders live in water contained within a "perched" zone of the Edwards Limestone formation that is relatively thin and does not retain or recharge much water when compared to the Barton Springs segment of the Edwards Aquifer. Many of the springs where the

Georgetown and Salado salamanders are found are more ephemeral due to the relatively small drainage basins and relatively quick discharge of surplus groundwater after a rainfall event. Surface water at several of the proposed creek headwater critical habitat units is generally short lived following a rain event. The persistence of Jollyville Plateau, Georgetown, and Salado salamanders at these headwater locations demonstrates that the species are not as dependent on surface water as occupied impoundments suggest.

Our Response: The Service recognizes that the Austin blind salamander is more subterranean than the other three species of salamander. However, the Georgetown, Jollyville Plateau, and Salado salamanders all spend large portions of their lives in subterranean habitat. Further, the Jollyville Plateau and Georgetown salamanders have cave-associated forms. There are numerous similarities among all four of these species. On page 50770 of the proposed rule, the similarities of these four salamander species are specified. They are all within the same genus, entirely aquatic throughout each portion of their life cycles, respire through gills, inhabit water of high quality with a narrow range of conditions, depend on water from the Edwards Aquifer, and have similar predators. The Barton Springs salamander shares these same similarities. Based on this information, the Service has determined that these species are suitable surrogates for each other.

Exactly how much these species depend on surface water is unclear, but the best available information suggests that the productivity of surface habitat is important for individual growth. For example, a recent study showed that Jollyville Plateau salamanders had negative growth in body length and tail width while using subsurface habitat during a drought and that growth did not become positive until surface flow returned (Bendik and Gluesenkamp 2012, pp. 3–4). In addition, the morphological variation found in these salamander populations may provide insight into how much time is spent in subsurface habitat compared to surface habitat.

(68) *Comment:* Another commenter stated that salamander use of surface habitat is entirely dependent on rainfall events large enough to generate sufficient spring and stream flow. Even after large rainfall events, stream flow decreases quickly and dissipates within days. As a result, the salamanders are predominately underground species because groundwater is far more abundant and sustainable.

Our Response: See our response to previous comment above.

(69) *Comment:* Several commenters stated that there is insufficient data on long-term flow patterns of the springs and creek and on the correlation of flow, water quality, habitat, ecology, and community response to make a listing determination. Commenters propose that additional studies be conducted to evaluate hydrology and surface recharge area, and water quality.

Our Response: We agree that there is a need for more study on the hydrology of salamander sites, but there are sufficient available data on the threats to these species to make a listing determination. We make our listing determinations based on the five listing factors, singly or in combination, as described in section 4(a)(1) of the Act. In making our listing determination, we considered and evaluated the best available scientific and commercial information.

Pesticides

(70) *Comment:* Claims of pesticides posing a significant threat are unsubstantiated. The references cited in the proposed rule are in some cases misquoted and others are refuted by more robust analysis. The water quality monitoring reports, as noted in the proposed rule, indicate that pesticides were found at levels below criteria set in the aquatic life protection section of the Texas Surface Water Quality Standards, and they were most often at sites with urban or partly urban watersheds. This information conflicts with the statement that the frequency and duration of exposure to harmful levels of pesticides have been largely unknown or undocumented.

Our Response: We recognize there are uncertainties about the degree to which different pesticides may be impacting water quality and salamander health across the range of these salamander species, but the very nature of pesticides being designed to control unwanted organisms through toxicological mechanisms and their persistence in the environment makes them pose an inherent risk to non-target species. Numerous studies have documented the presence of pesticides in water, particularly areas impacted by urbanization and agriculture, and there is ample evidence that full life cycle and multigenerational exposures to dozens of chemicals, even at low concentrations, contribute to declines in the abundance and diversity of aquatic species. Few pesticides or their breakdown products have been tested for multigenerational effects to amphibians and many do not have an applicable state or Federal water quality standard. For these reasons, we maintain that commercial and residential pesticide use contributes to habitat degradation and poses a threat to the Georgetown and Salado salamanders, as well as the aquatic organisms that comprise their diet.

(71) *Comment:* The Service cites Rohr *et al.* (2003, p. 2,391) indicating that carbaryl causes mortalities and deformities in streamside salamanders (*Ambystoma barbouri*). However, Rohr *et al.* (2003, p. 2,391) actually found that larval survival was reduced by the highest concentrations of carbaryl tested (50 µg/L) over a 37-day exposure period. Rohr *et al.* (2003, p. 2,391) also found that embryo survival and growth was not affected, and hatching was not delayed in the 37 days of carbaryl exposure. In the same study, exposure to 400 µg/L of atrazine over 37 days (the highest dose tested) had no effect on larval or embryo survival, hatching, or growth. A Scientific Advisory Panel (SAP) of the Environmental Protection Agency (EPA) reviewed available information regarding atrazine effects on amphibians, including the Hayes (2002) study cited by the Service, and concluded that atrazine appeared to have no effect on clawed frog (*Xenopus laevis*) development at atrazine concentrations ranging from 0.01 to 100 µg/L. These studies do not support the Service's conclusions.

Our Response: We do not believe that our characterization of Rohr *et al.* (2003) misrepresented the results of the study. In their conclusions, Rohr *et al.* (2003, p. 2,391) state, "Carbaryl caused significant larval mortality at the highest concentration, and produced the greatest percent of malformed larvae, but did not significantly affect behavior relative to controls. Although atrazine did not induce significant mortality, it did seem to affect motor function." This study clearly demonstrates that these two pesticides can have an impact on amphibian biology and behavior. In addition, the EPA (2007, p. 9) also found that carbaryl is likely to adversely affect the Barton Springs salamander both directly and indirectly through reduction of prey.

Regarding the Hayes (2002) study, we acknowledge that an SAP of the EPA reviewed this information and concluded that atrazine concentrations less than 100 µg/L had no effects on clawed frogs in 2007. However, the 2012 SAP did re-examine the conclusions of the 2007 SAP using a meta-analysis of published studies along with additional studies on more species (EPA 2012, p. 35). The 2012 SAP expressed concern that some studies were discounted in

the 2007 SAP analysis, including studies like Hayes (2002) that indicated that atrazine is linked to endocrine disruption in amphibians (EPA 2012, p. 35). In addition, the 2007 SAP noted that their results on clawed frogs are insufficient to make global conclusions about the effects of atrazine on all amphibian species (EPA 2012, p. 33). Accordingly, the 2012 SAP has recommended further testing on at least three amphibian species before a conclusion can be reached that atrazine has no effect on amphibians at concentrations less than 100 µg/L (EPA 2012, p. 33). Due to potential differences in species sensitivity, exposure scenarios that may include dozens of chemical stressors simultaneously, and multigenerational effects that are not fully understood, we continue to view pesticides in general, including carbaryl, atrazine, and many others to which aquatic organisms may be exposed, as a potential threat to water quality, salamander health, and the health of aquatic organisms that comprise the diet of salamanders.

Impervious Cover

(72) *Comment:* One commenter stated that in the draft impervious cover analysis the Service has provided no data to prove a cause and effect relationship between impervious cover and the status of surface salamander sites or the status of underground habitat.

Our Response: Peer reviewers agreed that we used the best available scientific information in regards to the link between urbanization, impervious cover, water quality, and salamander populations.

(73) *Comment:* On page 18 of the draft impervious cover analysis, the Service dismisses the role and effectiveness of water quality controls to mitigate the effects of impervious cover: ". . . the effectiveness of stormwater runoff measures, such as passive filtering systems, is largely unknown in terms of mitigating the effects of watershed-scale urbanization." It appears that the Service assumed that existing water controls have no effect in reducing or removing pollutants from stormwater runoff. The Service recognized the effectiveness of such stormwater runoff measures in the final rule listing the Barton Springs salamander as endangered in 1997. Since 1997, the Service has separately concurred on two occasions that the water quality controls imposed in the Edwards Aquifer area protect the Barton Springs salamander and the Georgetown salamander. It is not appropriate to rely upon generalized findings regarding the detectability of water quality degradation in watersheds with no water quality controls.

Our Response: Our analysis within this final rule does not ignore the effectiveness of water quality control measures. In fact, we specifically address how these control measures factor into our analysis under Factor D. We recognize that control measures can reduce pollution entering bodies of water. However, as presented in our final impervious cover analysis, data from around the country indicate that urbanization within the watershed degrades water quality despite the presence of water quality control measures that have been in place for decades (Schueler *et al.* 2009, p. 313). Since 1997, water quality and salamander counts have declined at several salamander sites within the City of Austin, as described under Factor A in this final listing rule. This is in spite of water quality control measures implemented in the Edwards Aquifer area. Further discussion of these measures can be found under Factor D of this final listing rule.

(74) *Comment:* The springshed, as defined in the draft impervious cover analysis, is a misnomer because the so called springsheds delineated in the study are not the contributing or recharge area for the studied springs. Calling a surface area that drains to a specific stretch of a creek a springshed is disingenuous and probably misleading to less informed readers.

Our Response: We acknowledge that the term springshed may be confusing to readers, and we have thus replaced this term with the descriptors "surface drainage area of a spring" or "surface watershed of a spring" throughout this final listing rule and impervious cover analysis document.

(75) *Comment:* During the first public comment period, many entities submitted comments and information directing the Service's attention to the actual data on water quality in the affected creeks and springs. Given the amount of water quality data available to the Service and the public, the Texas Salamander Coalition is concerned that the Service continues to ignore local data and instead focuses on impervious cover and impervious cover studies conducted in other parts of the country without regard to existing water quality regulations. Commenters questioned why the Service sued models, generic data, and concepts when actual data on the area of concern is readily available.

Our Response: The Service has examined and incorporated all water quality data submitted during the public comment periods. However, the vast majority of salamander sites are still lacking long-term monitoring data that are necessary to make conclusions on the status of the site's water quality. The impervious cover analysis allows us to quantify this specific threat for sites where information is lacking.

Disease

(76) *Comment:* The Service concludes in the proposed rule that chytrid fungus is not a threat to any of the salamanders. The Service's justification for this conclusion is that they have no data to indicate whether impacts from this disease may increase or decrease in the future. There appears to be inconsistency in how the information regarding threats is used.

Our Response: Threats are assessed by their imminence and magnitude. Currently, we have no data to indicate that chytrid fungus is a threat to the species. The few studies that have looked for chytrid fungus in central Texas *Eurycea* found the fungus, but no associated pathology was found within several populations and among different salamander species.

Climate Change

(77) *Comment:* Climate change has already increased the intensity and frequency of extreme rainfall events globally (numerous references) and in central Texas. This increase in rainfall extremes means more runoff possibly overwhelming the capacity of recharge features. This has implications for water storage. Implications are that the number of runoff events recharging the aquifer with a higher concentration of toxic pollutants than past events will be occurring more frequently, likely in an aquifer with a lower overall volume of water to dilute pollutants. Understanding high concentration toxicity needs to be evaluated in light of this.

Our Response: We agree that climate change will likely result in less frequent recharge, affecting both water quantity and quality of springs throughout the aquifer. We have added language in the final listing rule to further describe the threat of climate change and impacts to water quality.

(78) *Comment:* The section of the proposed rule addressing climate change fails to include any consideration or description of a baseline central Texas climate. The proposed rule describes flooding and drought as threats, but fails to provide any serious contextual analysis of the role of droughts and floods in the life history of the central Texas salamanders.

Our Response: The proposed and final listing rules discuss the threats of

drought conditions and flooding, both in the context of naturally occurring weather patterns and as a result of anthropogenic activities.

(79) *Comment:* The flooding analysis is one of several examples in the proposed rule in which the Service cites events measured on micro-scales of time and area, and fails to comprehend the larger ecosystem at work. For example, the proposed rule describes one flood event causing "erosion, scouring the streambed channel, the loss of large rocks, and creation of several deep pools." Later, the Service describes other flooding events as depositing sediment and other materials on spring openings at Salado Spring (page 50788). Scouring and depositing sediment are both normal results of the intense rainfall events in central Texas.

Our Response: While we agree that scouring and sediment deposition are normal hydrologic processes, when the frequency and intensity of these events is altered by climate change, urbanization, or other anthropogenic forces, the resulting impacts to ecosystems can be more detrimental than what would occur naturally.

Other Threats

(80) *Comment:* The risk of extinction is negatively or inversely correlated with population size. Also, small population size, in and of itself, can increase the risk of extinction due to demographic stochasticity, mutation accumulation, and genetic drift. The correlation between extinction risk and population size is not necessarily indirect (that is, due to an additional extrinsic factor such as environmental perturbation).

Our Response: Although we do not consider small population sizes to be a threat in and of itself to either the Georgetown or Salado salamander, we do conclude that small population sizes make them more vulnerable to extinction from other existing or potential threats, such as major stochastic events.

Water Quality

(81) *Comment:* The City of Georgetown's Unified Development Code requires that all development in this territory, including projects less than 1 ac (0.4 ha), must meet all requirements of the TCEQ for water quality. For commercial sites, the City of Georgetown's Unified Development Code allows a maximum of 70 percent impervious cover for tracts less than 5 ac (2 ha). For tracts greater than 5 ac (2 ha), the Unified Development Code allows 70 percent impervious cover for the first 5 ac (2 ha), and then 55 percent impervious cover over the initial 5 ac (2 ha). The Unified Development Code also allows the area above the initial 5 ac (2 ha) to be upgraded to 70 percent impervious with advanced water quality. The required advanced water-quality systems are retention irrigation, removing 100 percent of the suspended solids; wet ponds, removing 93 percent suspended solids; or bioretention facilities, removing 89 percent suspended solids. For residential projects, the City of Georgetown's Unified Development Code allows a maximum of 45 percent impervious cover.

Our Response: We recognize and agree that best management practices, such as the development codes mentioned by the commenter, provide some protection to water quality. However the protections are not effective in alleviating all the threat of degraded water quality for any of the salamanders. On-site retention of storm flows and other regulatory mechanisms to protect water quality are beneficial and work well to remove certain types of pollutants such as total dissolved solids, but in most cases, habitat quality in urban environments still degrades over time due to persistent pollutants like trace metals and pesticides that can accumulate in sediments and biological tissues.

(82) *Comment:* The Service should have consulted with those federal and state agencies that are charged with protecting water quality and that have the expertise to address water quality issues. The EPA, TCEQ, and the USGS are experts on the reliability of the water quality studies cited by the Service in its determination that water quality in central Texas continues to decline.

Our Response: We notified and invited the EPA, TCEQ, and USGS to comment on our proposed rule and provide any data on water quality within the range of the salamander species. Two USGS biologists provided peer reviews on our proposed rule, and we cited numerous studies from the EPA, TCEQ, and USGS in our final analysis.

Taxonomy

(83) *Comment:* The level of genetic divergence among the Jollyville Plateau, Georgetown, and Salado salamanders is not sufficiently large to justify recognition of three species. The DNA papers indicate a strong genetic relationship between individual salamanders found across the area. Such a strong relationship necessarily means that on an ecosystem wide basis, the salamanders are exchanging genetic material on a regular basis. There is no evidence that any of these salamanders are unique species.

Our Response: The genetic relatedness of the three northern species (Georgetown salamander, Jollyville Plateau salamander, and Salado salamanders) is not disputed. The three species are included together on a main branch of the tree diagrams of mtDNA data (Chippindale *et al.* 2000, Figs. 4 and 6). The tree portraying relationships based on allozymes (genetic markers based on differences in proteins coded by genes) is concordant with the mtDNA trees (Chippindale *et al.* 2000, Fig. 5). These trees support the evolutionary relatedness of the three species, but not their identity as a single species. The lack of sharing of mtDNA haplotype markers, existence of unique allozyme alleles in each of the three species, and multiple morphological characters diagnostic of each of the three species are inconsistent with the assertion that they are exchanging genetic material on a regular basis. The Austin blind salamander is on an entirely different branch of the tree portraying genetic relationships among these species based on mtDNA, and has diagnostic, morphological characters that distinguish it from other Texas salamanders (Hillis *et al.* 2001, p. 267). Based on our review of these differences, and taking into account the view expressed in peer reviews by taxonomists, we conclude that the currently available evidence is sufficient for recognizing these salamanders as four separate species.

(84) *Comment:* A genetics professor commented that Forstner's report (2012) disputing the taxonomy of the four central Texas salamanders represents a highly flawed analysis that has not undergone peer review. It is not a true taxonomic analysis of the *Eurycea* complex and does not present any evidence that call into question the current taxonomy of the salamanders. Forstner's (2012) report is lacking key information regarding exact methodology and analysis. It is not entirely clear what resulting length of base pairs was used in the phylogenetic analysis and the extent to which the data set was supplemented with missing or ambiguous data. The amount of sequence data versus missing data is important for understanding and interpreting the subsequent analysis. It also appears as though Forstner included all individuals with available, unique sequence when, in fact, taxonomic sampling—that is, the number of individuals sampled within a particular taxon compared with other taxa—can also affect the accuracy of the resulting topology. The Forstner (2012)

report only relies on mitochondrial DNA whereas the original taxonomic descriptions of these species relied on a combination of nuclear DNA, mitochondrial DNA as well as morphology (Chippindale *et al.* 2000, Hillis *et al.* 2001). Forstner's (2012) report does not consider non-genetic factors such as ecology and morphology when evaluating taxonomic differences. Despite the limitations of a mitochondrial DNA-only analysis, Forstner's (2012) report actually contradicts an earlier report by the same author that also relied only on mtDNA.

Our Response: This comment supports the Service's and our peer reviewers' interpretation of the best available data (see responses to comments 1 through 6 above).

(85) *Comment:* Forstner (2012) argues that the level of genetic divergence among the three species of Texas *Eurycea* is not sufficiently large to justify recognition of three species. A genetics professor commented that this conclusion is overly simplistic. It is not clear that the populations currently called *Eurycea lucifuga* in reality represent a single species, as Forstner (2012) assumes. Almost all cases of new species in the United States for the last 20 years (*E. waterlooensis* is a rare exception) have resulted from DNA techniques used to identify new species that are cryptic, meaning their similarity obscured the genetic distinctiveness of the species. One could view the data on *Eurycea lucifuga* as supporting that cryptic species are also present. Moreover, Forstner's (2012) comparison was made to only one species, rather than to salamanders generally. Moreover, there is perhaps a problem with the Harlan and Zigler (2009) data. They sequenced 10 specimens of *E. lucifuga,* all from Franklin County, Tennessee; 9 of these show genetic distances between each other from 0.1 to 0.3 percent, which is very low. One specimen shows genetic distance to all other nine individuals from 1.7 to 1.9 percent, an order of magnitude higher. This single specimen is what causes the high level of genetic divergence to which Forstner compares the *Eurycea.* This discrepancy is extremely obvious in the Harlan and Zigler (2009) paper, but was not mentioned by Forstner (2012). A difference of an order of magnitude in 1 specimen of 10 is highly suspect, and, therefore, these data should not be used as a benchmark in comparing *Eurycea.*

The second argument in Forstner (2012) is that the phylogenetic tree does not group all individuals of a given species into the same cluster or lineage. Forstner's (2012) conclusions are overly simplistic. The failure of all sequences of *Eurycea tonkawae* to cluster closely with each other is due to the amount of missing data in some sequences. It is well known in the phylogenetics literature that analyzing sequences with very different data (in other words, large amounts of missing data) will produce incorrect results because of this artifact. As an aside, why is there missing data? The reason is that these data were produced roughly 5 years apart. The shorter sequences were made at a time when lengths of 350 bases for cytochrome b were standard because of the limitations of the technology. As improved and cheaper methods were available (about 5 to 6 years later), it became possible to collect sequences that were typically 1,000 to 1,100 bases long. It is important to remember that the data used to support the original description of the three northern species by Chippindale *et al.* (2000) were not only cytochrome b sequences, but also data from a different, but effective, analysis of other genes, as well as analysis of external characteristics. Forstner's (2012) assessment of the taxonomic status (species or not) of the three species of the northern group is not supported by the purported evidence that he presents (much of it unpublished).

Our Response: This comment supports the Service's and our peer reviewers' interpretation of the best available data (see Responses to Comments 1 through 5 above)

(86) *Comment:* Until the scientific community determines the appropriate systematic approach to identify the number of species, it seems imprudent to elevate the salamanders to endangered.

Our Response: The Service must base its listing determinations on the best available scientific and commercial information, and such information includes considerations of correct taxonomy. To ensure the appropriateness of our own analysis of the relevant taxonomic literature, we sought peer reviews from highly qualified taxonomists, particularly with specialization on salamander taxonomy, of our interpretation of the available taxonomic literature and unpublished reports. We find that careful analysis and peer review is the best way to determine whether any particular taxonomic arrangement is likely to be generally accepted by experts in the field. The peer reviews that we received provide overall support, based on the available information, for the species that we accept as valid in the final listing rule.

Technical Information

(87) *Comment:* The Service made the following statement in the proposed rule: "Therefore, the status of subsurface populations is largely unknown, making it difficult to assess the effects of threats on the subsurface populations and their habitat." In fact, the difficulty of assessing threats for subsurface populations depends upon the threats. One can more easily assess threats of chemical pollutants, for example, because subterranean populations will be affected similarly to surface ones because they inhabit the same or similar water.

Our Response: The statement above was meant to demonstrate the problems associated with not knowing how many salamanders exist in subsurface habitat rather than how threats are identified. We have removed the statement in the final listing rule to eliminate this confusion.

City of Georgetown's Water Quality Ordinance

(88) *Comment:* Several comments supported the City of Georgetown's Edwards Aquifer Recharge Zone Water Quality Ordinance that was adopted by the Georgetown City Council on December 20, 2013. These commenters stated that regulations to protect the Georgetown salamander are better implemented at the local level compared to Federal regulations.

Our response: The Service appreciates the effort put forth by the City of Georgetown and Williamson County to help reduce threats to the Georgetown salamander through the implementation of their Edwards Aquifer Recharge Zone Water Quality Ordinance. Section 4(b)(1)(A) of the Act requires us to take into account those efforts being made by a state or foreign nation, or any political subdivision of a state or foreign nation, to protect such species. We also consider relevant Federal and tribal laws and regulations in our threats analysis. In our analysis, we consider whether or not existing regulatory mechanisms are adequate enough to address the threats to the species such that listing is no longer warranted. For further discussion of existing regulations and ordinances, please see Factors A and D below in this final listing rule.

(89) *Comment:* The combination of plans and promises put forward by the City of Georgetown lack any true staying power and their effectiveness seems largely up to the willingness of all interested parties to cooperate on a voluntary basis. Importantly, the rules and suggested development practices

laid out in the Edwards Aquifer Recharge Zone Water Quality Ordinance and Georgetown Water Quality Management Plan make little mention of the business of granting exceptions. The WCCF is a non-profit corporation with strong allies in for-profit corporations. It is entirely within the realm of reasonable possibility that trusting the front of the WCCF to guide city policy instead would mask a for-profit pro-development agenda. In fact, the City Ordinance 2013–59 makes explicit the City Council's priority "[. . .] to ensure that future growth and development is unbridled by potential Federal oversight nor Federal permitting requirements that would delay development projects detrimentally to the sustained viability of the city's economy [. . .]." In this area, I am most concerned such that the real "teeth" of the plans rests in the ability of the City of Georgetown to obtain and keep what is almost entirely voluntary compliance.

Our response: The City of Georgetown's Edwards Aquifer Recharge Zone Water Quality Ordinance was adopted by the Georgetown City Council on December 20, 2013, and became effective immediately. All regulated activities within the City of Georgetown and its extraterritorial jurisdiction (ETJ) located over the recharge zone are required to implement the protective measures established by the ordinance. Compliance with the ordinance is not voluntary. The ordinance also established an Adaptive Management Working Group to review Georgetown salamander monitoring data and new research over time and recommending improvements to the ordinance that may be necessary to ensure that it achieves its stated purposes. This Adaptive Management Working Group, which includes representatives of the Service and TPWD, will also review and make recommendations on the approval of any variances to the ordinance.

(90) *Comment:* Once the Federal government passes control to a local government entity, any protection provided to the salamander will eventually disappear.

Our response: The Service supports local involvement and interest in the conservation of salamanders. Section 4(b)(1)(A) of the Act requires us to take into account those efforts being made by a state or foreign nation, or any political subdivision of a state or foreign nation, to protect such species, and we fully recognize the contributions of local programs.

(91) *Comment:* Several commenters stated that the City of Georgetown ordinance does not fully alleviate known threats to the Georgetown salamander and will not significantly reduce its danger of extinction. They acknowledged that the ordinance could provide minor protections to certain aspects of water quality in the immediate vicinity of occupied spring sites, such as to decrease the probability of wholesale destruction by physical disturbance of occupied springs. But, the commenters stated that the ordinance would not protect the quantity of spring flows or threats to water quality from more distant points in the spring watersheds. Further, they noted that the ordinance does not address the threats from small population size, drought, or climate change.

(92) *Comment:* The buffer zones described in the ordinance lessen the potential for further water quality degradation, but they do not remove the threat posed by existing development. Four Georgetown salamander sites are located in areas where the impervious cover estimates exceed thresholds where harm to water quality is expected to occur. The threat of chemical spills from existing highways, sewer lines, and septic systems still exists. Existing development has already affected salamander habitat and degradation will continue with new development.

(93) *Comment:* The City of Austin Save Our Springs Ordinance is a non-degradation ordinance that requires 100 percent removal of total suspended solids (TSS). Despite this, the City of Austin rules were not sufficient to preclude the 2013 listing of the Austin Blind Salamander. Because it requires only 85 percent removal of TSS, the City of Georgetown's water quality ordinance is substantially less protection than the City of Austin's. Thus, it would be inconsistent for the Service to preclude listing of the Georgetown Salamander on this basis.

(94) *Comment:* The City of Georgetown ordinance does not specify a prohibition on sediment discharge during the critical ground-disturbing construction phase of new development, and no performance criteria for sediment removal are specified. Thus, the ordinance is insufficient to eliminate sedimentation of salamander habitat as a result of new development construction.

(95) *Comment:* In addition to the impacts from existing development that would continue under the Georgetown ordinance, projects that were platted or planned prior to the Georgetown ordinance would not be subject to the new ordinance as exempted under Chapter 245 "grandfathering" provisions of Texas State law. Five Georgetown salamander sites are exempt from the requirements of the Georgetown ordinance (Cowan Spring, Bat Well Cave, Water Tank Cave, Knight Spring, and Shadow Canyon Spring). The development near Shadow Canyon Spring is currently under consultation with the Service, while the four other sites are all compliant with the Red Zone as described in the ordinance. Because current TCEQ development regulations require removal of 80 percent TSS for every project within the recharge zone of the Edwards Aquifer as opposed to the 85 percent TSS removal required in the new ordinance, the overall effect on the water quality of the Edwards Aquifer from these four small sites is minimal.

(96) *Comment:* The Georgetown ordinance does not include impervious cover limitations in the upstream surface water or groundwater contributing areas to salamander habitat. The effectiveness and protectiveness of the flood and water quality controls included in the Georgetown ordinance decrease with increasing impervious cover.

(97) *Comment:* The City of Georgetown and Williamson County have continually demonstrated their ongoing commitment to establishing and implementing programs to preserve open space, protect species habitat and reduce dependence on groundwater water supplies. The success of these programs to protect endangered karst dwelling invertebrates and songbirds highlights the willingness and intention to implement and enforce the recently approved Georgetown salamander ordinances. The successful working relationship established between Williamson County and the Service also speaks to the likelihood of implementation. In addition, the City of Georgetown staffs a code enforcement division responsible for monitoring both public and private property, commercial and residential, to ensure compliance with all city codes and ordinances. The City of Georgetown has successfully implemented water quality regulations within its jurisdiction in the past.

(98) *Comment:* The certainty of effectiveness of the ordinance is increased by the formation of an Adaptive Management Working Group and an Adaptive Management Plan charged specifically with reviewing salamander monitoring data and new research over time and recommending improvements to the ordinance that may be necessary to ensure that it achieves its stated purposes. This Adaptive Management Working Group, which includes representatives of the Service and TPWD, will also review and make

recommendations on the approval of any variances to the ordinance.

Our response to Comments 91–98: The Service has analyzed the effect of the ordinance on the threats identified below under *Summary of Factors Affecting the Species* and have made a determination as to whether or not the regulatory mechanism (City of Georgetown ordinance) has reduced the threats to the point that listing the species as threatened or endangered under the Act is no longer warranted.

(99) *Comment:* The Red Zone buffer should extend past culverts and roadways because these are not documented impediments to salamander migration.

Our response: The ordinance specifically states that the Red Zone ". . . shall not extend beyond any existing physical obstructions that prevent the surface movement of Georgetown salamanders . . ." Therefore, the Service believes that any physical obstructions that do not prevent the surface movement of salamanders would not be included as limiting the size of the Red Zone.

(100) *Comment:* Development activities within the contributing area of the spring outside of the 984-ft (300-m) buffer of the Orange Zone would still affect the quality and quantity of spring discharge.

Our response: The Service agrees that some activities occurring further than 984 ft (300 m) from a spring site could have the potential to impact the quality and quantity of spring discharge. However, overall, we believe that the ordinance has minimized and reduced some of the threats to the Georgetown salamander. See the discussion below under *Summary of Factors Affecting the Species.*

(101) *Comment:* While the City of Georgetown has expressed its intention to rely upon surface water or wells outside the Edwards Aquifer for additional future water supplies, these intentions are purely voluntary and cannot be considered sufficient to remove the threat of inadequate spring flows.

Our response: The Service does not consider the City of Georgetown's intention to rely upon surface water or wells outside the Edwards Aquifer sufficient to entirely remove the threat of inadequate spring flows.

Summary of Changes From the Proposed Rule

Based upon our review of the public comments, comments from other Federal and State agencies, peer review comments, issues addressed at the public hearing, and any new relevant information that may have become available since the publication of the proposal, we reevaluated our proposed rule and made changes as appropriate. The Service has incorporated information related to the Edwards Aquifer Recharge Zone Water Quality Ordinance approved by the Georgetown City Council on December 20, 2013 (Ordinance No. 2013–59). The purpose of this ordinance is to reduce some of the threats to the Georgetown salamander within the City of Georgetown and its ETJ through the protection of water quality near occupied sites known at the time the ordinance was approved, enhancement of water quality protection throughout the Edwards Aquifer recharge zone, and establishment of protective buffers around all springs and streams. Additionally, an Adaptive Management Working Group has been established that is charged specifically with reviewing Georgetown salamander monitoring data and new research over time and recommending improvements to the ordinance that may be necessary to ensure that it achieves its stated purposes. This Adaptive Management Working Group, which includes representatives of the Service and TPWD, will also review and make recommendations on the approval of any variances to the ordinance.

During the two comment periods that were opened during the 6-month extension, the Service did not receive any additional information to assist us in making a conclusion regarding the population trends of either of these two species. However, a report submitted by the Williamson County Conservation Foundation noted that since April 2012 biologists have observed Georgetown salamanders at Swinbank Spring and Twin Springs (Pierce and McEntire 2013, p. 8). These two sites and one additional site (Cowan Spring) are the only Georgetown salamander locations for which population surveys have been conducted over multiple years. We are not aware of any population trend analysis that has been conducted for the Georgetown salamander. Dr. Toby Hibbits conducted surveys for the Salado salamander at nine different locations during the fall of 2013 and was unable to locate any salamanders. He concluded ". . . even in the best conditions that Salado Salamanders are difficult to find and likely occupy the surface habitat in low numbers" (Hibbits 2013, p. 3). Therefore, we are not making any conclusions related to the short- and long-term population trends of the Georgetown or Salado salamanders in this final rule.

Finally, in addition to minor clarifications and incorporation of additional information on the species' biology and related to the new Georgetown water quality ordinance, this determination differs from the proposal because, based on our analyses, the Service has determined that the Georgetown and Salado salamanders should be listed as threatened species instead of endangered species.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR 424) set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors is discussed below.

In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered or threatened species under the Act.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Habitat modification, in the form of degraded water quality and quantity and disturbance of spring sites, is the primary threat to the Georgetown and Salado salamanders. Water quality degradation in salamander habitat has been cited in several studies as the top concern for closely related salamander species in the central Texas region (Chippindale *et al.* 2000, pp. 36, 40, 43; Hillis *et al.* 2001, p. 267; Bowles *et al.* 2006, pp. 118–119; O'Donnell *et al.* 2006, pp. 45–50). The Georgetown and Salado salamanders spend their entire life cycle in water. They have evolved under natural aquifer conditions both underground and as the water discharges from natural spring outlets. Deviations from high water quality and quantity have detrimental effects on salamander ecology because the aquatic habitat can be rendered unsuitable for salamanders by changes in water chemistry and flow patterns. Substrate modification is also a major concern for aquatic salamander species (City of Austin (COA) 2001, pp. 101, 126; Geismar 2005, p. 2; O'Donnell *et al.* 2006, p. 34). Unobstructed interstitial space is a critical component to the surface habitat for both the Georgetown and Salado salamander species, because it provides cover from predators and habitat for their macroinvertebrate prey items within surface sites. When the interstitial spaces become compacted or filled with fine sediment, the amount of available foraging habitat and protective cover for salamanders with these behaviors is reduced, resulting in population declines (Welsh and Ollivier 1998, p. 1,128; Geismar 2005, p. 2; O'Donnell *et al.* 2006, p. 34).

Threats to the habitat of the Georgetown and Salado salamanders (including those that affect water quality, water quantity, or the physical habitat) may affect only the surface habitat, only the subsurface habitat, or both habitat types. For example, substrate modification degrades the surface springs and spring-runs but does not impact the subsurface environment within the aquifer, while water quality degradation can impact both the surface and subsurface habitats, depending on whether the degrading elements are moving through groundwater or are running off the ground surface into a spring area (surface watershed). Our assessment of water quality threats from urbanization is largely focused on surface watersheds because of the limited information available on subsurface flows and drainage areas that feed into the spring and cave locations. An exception to this would be threats posed by chemical pollutants to water quality, which would negatively impact both surface and subsurface habitats. These recharge areas are additional pathways for impacts to the Georgetown and Salado salamanders to happen that we are not able to precisely assess at each known salamander site. However, we can consider urbanization and various other sources of impacts to water quality and quantity over the larger recharge zone to the aquifer (as opposed to individual springs) to assess the potential for impacts at salamander sites.

The threats under Factor A will be presented in reference to stressors and sources. We consider a stressor to be a physical, chemical, or biological alteration that can induce an adverse response from an individual salamander. These alterations can act directly on an individual or act indirectly on an individual through impacts to resources the species requires for feeding, breeding, or sheltering. A source is the origin from which the stressor (or alteration) arises. The majority of the discussion below under Factor A focuses on evaluating the nature and extent of stressors and their sources related to urbanization, the primary source of water quality degradation, within the ranges of the Georgetown and Salado salamander species. Additionally, other stressors causing habitat destruction and modification, including water quantity degradation and physical disturbance to surface habitat, will be addressed.

Throughout the threats discussion below, we have provided references to studies or other information available in our files that evaluate threats to the Georgetown and Salado salamanders that are occurring or are likely to occur in the future given the considerable human population growth that is projected for the areas known to be occupied by these species. Establishing causal relationships between environmental stressors and observed effects in organisms is difficult because there are no widely accepted and proven approaches for determining such relationships and because experimental studies (either in the laboratory or the field) on the effects of each stressor on a particular organism are rare.

In the field of aquatic ecotoxicology, it is common practice to apply the results of experiments on common species to other species that are of direct interest (Caro *et al.* 2005, p. 1,823). In addition, the field of conservation biology is increasingly relying on information about substitute species to predict how related species will respond to stressors (for example, see Caro *et al.* 2005 pp. 1,821–1,826; Wenger 2008, p. 1,565). In instances where information was not available for the Georgetown and Salado salamander specifically, we have provided references for studies conducted on similarly related species, such as the Jollyville Plateau salamander (*Eurycea tonkawae*) and Barton Springs salamander (*Eurycea sosorum*), which occur within the central Texas area, and other salamander species that occur in other parts of the United States. The similarities among these species may include: (1) A clear systematic (evolutionary) relationship (for example, members of the Family Plethodontidae); (2) shared life-history attributes (for example, the lack of metamorphosis into a terrestrial form); (3) similar morphology and physiology (for example, the lack of lungs for respiration and sensitivity to environmental conditions); (4) similar prey (for example, small invertebrate species); and (5) similar habitat and ecological requirements (for example, dependence on aquatic habitat in or near springs with a rocky or gravel substrate). Depending on the amount and variety of characteristics in which one salamander species can be analogous to another, we used these similarities as a basis to infer further parallels in how a species or population may respond or be affected by a particular source or stressor.

Water Quality Degradation

Urbanization

Urbanization is one of the most significant sources of water quality degradation that can reduce the survival of aquatic organisms, such as the Georgetown and Salado salamanders (Bowles *et al.* 2006, p. 119; Chippindale and Price 2005, pp. 196–197). Urban development leads to various stressors on spring systems, including increased frequency and magnitude of high flows in streams, increased sedimentation, increased contamination and toxicity, and changes in stream morphology and water chemistry (Coles *et al.* 2012, pp. 1–3, 24, 38, 50–51). Urbanization can also impact aquatic species by negatively affecting their invertebrate prey base (Coles *et al.* 2012, p. 4). Urbanization also increases the sources and risks of an acute or catastrophic contamination event, such as a leak from an underground storage tank or a hazardous materials spill on a highway.

Rapid human population growth is occurring within the ranges of the Georgetown and Salado salamanders.

The Georgetown salamander's range is located within an increasingly urbanized area of Williamson County, Texas (Figure 1). In 2010, the human population within the City of Georgetown's extraterritorial jurisdiction was 68,821 (City of Georgetown 2013, p. 3). By one estimate, this population is expected to exceed 225,000 by 2033 (City of Georgetown 2008, p. 3.5), which would be a 227 percent increase over a 23-year period. Another model projects that the City of Georgetown population will increase to 135,005 by 2030, a 96 percent increase over the 20-year period. The Texas State Data Center (2012, pp. 166–167) estimates an increase in human population in Williamson County from 422,679 in 2010, to 2,015,294 in 2050, exceeding the human population size of adjacent Travis County where the City of Austin metropolitan area is located. This would represent a 377 percent increase over a 40-year timeframe. Population projections from the Texas State Data Center (2012, p. 353) estimate that Bell County, where the Salado salamander occurs, will increase in population from 310,235 in 2010 to 707,840 in 2050, a 128 percent increase over the 40-year period. By comparison, the national United States' population is expected to increase from 310,233,000 in 2010 to 439,010,000 in 2050, which is about a 42 percent increase over the 40-year period (U.S. Census Bureau 2008, p. 1).

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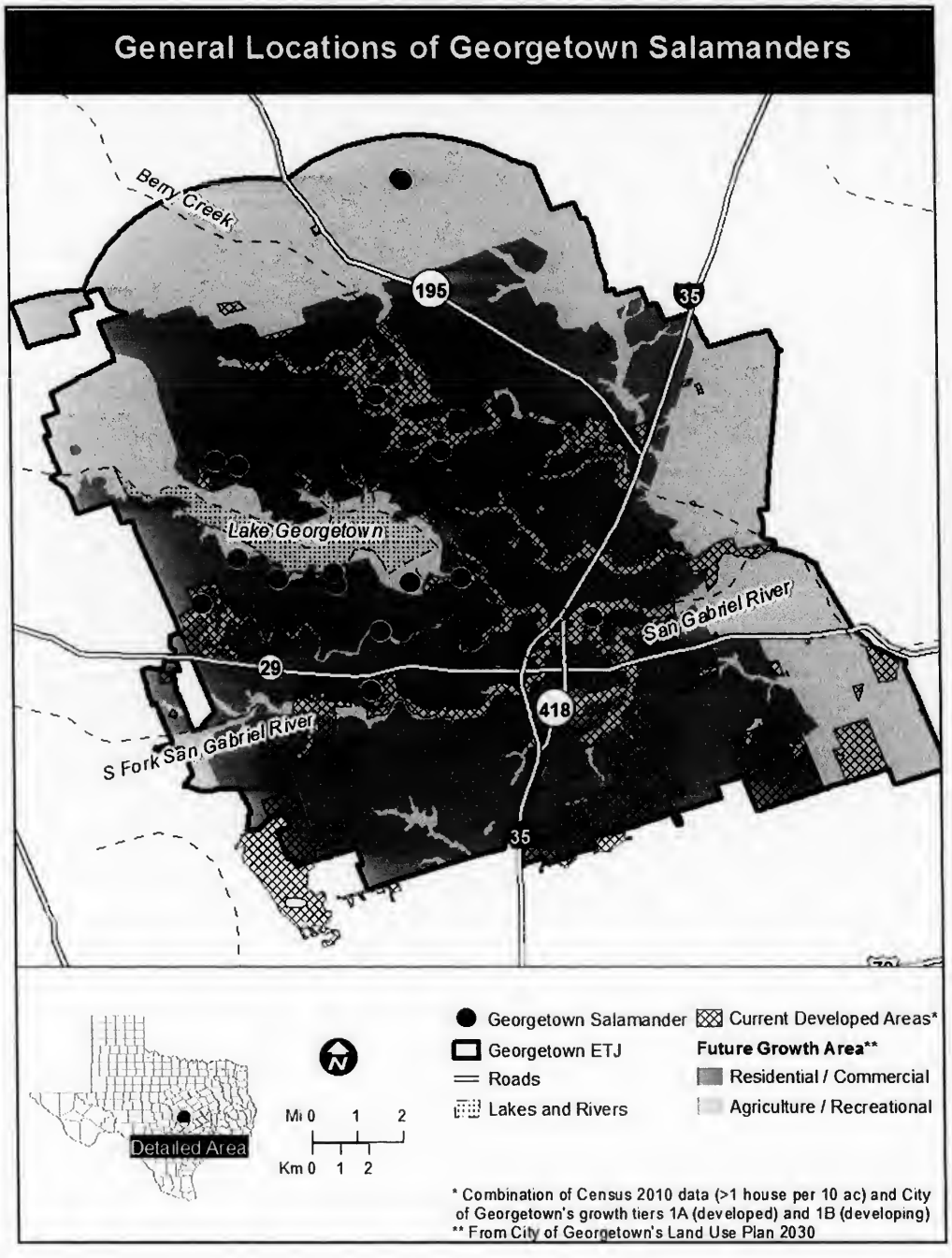

FIGURE 1: Urban development within the range of the Georgetown salamander.

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Growing human population sizes increase demand for residential and commercial development, drinking water supply, flood control, and other municipal foods and services that alter the environment, often degrading salamander habitat by changing hydrologic regimes and decreasing the quantity and quality of water resources (Coles *et al.* 2012, pp. 9–10). As development increases within the watersheds where the Georgetown and Salado salamanders occur, more opportunities exist for the detrimental effects of urbanization to impact salamander habitat without further conservation measures. A comprehensive study by the USGS found that across the United States contaminants, habitat destruction, and increasing stream flow flashiness (rapid response of large increases of stream flow to storm events) resulting from

urban development have been associated with the disruption of biological communities, particularly the loss of sensitive aquatic species (Coles *et al.* 2012, p. 1).

Several researchers have examined the negative impact of urbanization on stream salamander habitat by making connections between salamander abundances and levels of development within the watershed. In a 1972 study on the dusky salamander (*Desmognathus fuscus*) in Georgia, Orser and Shure (p. 1,150) were among the first biologists to show a decrease in stream salamander density with increasing urban development. A similar relationship between salamander populations and urbanization was found in another study on the dusky salamander, two-lined salamander (*Eurycea bislineata*), southern two-lined salamander (*Eurycea cirrigera*), and other species in North Carolina (Price *et al.* 2006, pp. 437–439; Price *et al.* 2012a, p. 198), Maryland, and Virginia (Grant *et al.* 2009, pp. 1,372–1,375). Willson and Dorcas (2003, pp. 768–770) demonstrated the importance of examining disturbance within the entire watershed as opposed to areas just adjacent to the stream by showing that salamander abundance in the dusky and two-lined salamanders is most closely related to the amount and type of habitat within the entire watershed. In central Texas, Bowles *et al.* (2006, p. 117) found lower Jollyville Plateau salamander densities in tributaries with developed watersheds as compared to tributaries with undeveloped watersheds. Developed tributaries also had higher concentrations of chloride, magnesium, nitrate-nitrogen, potassium, sodium, and sulfate (Bowles *et al.* 2006, p. 117). Because of the similarities in size, morphology, habitat requirements, and life history traits shared with the dusky salamander, two-lined salamander, southern two-lined salamander, and Jollyville Plateau salamander, we expect development occurring within the Georgetown and Salado salamanders' watersheds to affect these species in a similar manner.

The impacts that result from urbanization can affect the physiology of individual salamanders. An unpublished study has demonstrated that Jollyville Plateau salamanders in disturbed habitats have greater stress levels than those in undisturbed habitats, as determined by measurements of water-borne stress hormones in urbanized (approximately 25 percent impervious cover within the watershed) and undisturbed streams (Gabor 2012, Texas State University, pers. comm.). Chronic stress can decrease survival of individuals and may lead to a decrease in reproduction. Both of these factors may partially account for the decrease in abundance of salamanders in streams within disturbed environments (Gabor 2012, Texas State University, pers. comm.). Because of the similarities in morphology, physiology, habitat requirements, and life history traits shared with the Jollyville Plateau salamander, we expect chronic stress in disturbed environments to decrease survival, reproduction, and abundance of Georgetown and Salado salamanders.

Urbanization occurring within the watersheds of the Georgetown and Salado salamanders has the potential to cause irreversible declines or extirpation of salamander populations with continuous exposure to its effects (such as, contaminants, changes in water chemistry, and changes in stream flow) over a relatively short time span. Although surface watersheds for the Georgetown and Salado salamander are not as developed as that of the Jollyville Plateau salamander at the present time, it is likely that impacts from this threat will increase in the future as urbanization expands within the surface watersheds for these species as well.

Impervious cover is another source of water quality degradation and is directly correlated with urbanization (Coles *et al.* 2012, p. 38). For this reason, impervious cover is often used as a surrogate (substitute) measure for urbanization (Schueler *et al.* 2009, p. 309). Impervious cover is any surface material that prevents water from filtering into the soil, such as roads, rooftops, sidewalks, patios, paved surfaces, or compacted soil (Arnold and Gibbons 1996, p. 244). Once vegetation in a watershed is replaced with impervious cover, rainfall is converted to surface runoff instead of filtering through the ground (Schueler 1991, p. 114). Impervious cover in a watershed has the following effects: (1) It alters the hydrology or movement of water through a watershed, (2) it increases the inputs of contaminants to levels that greatly exceed those found naturally in streams, and (3) it alters habitats in and near streams that provide living spaces for aquatic species (Coles *et al.* 2012, p. 38), such as the Georgetown and Salado salamanders and their prey. During periods of high precipitation levels in highly urbanized areas, stormwater runoff enters recharge areas of the Edwards Aquifer and rapidly transports sediment, fertilizer nutrients, and toxic contaminants (such as pesticides, metals, and petroleum hydrocarbons) to salamander habitat (COA 1990, pp. 12–14). The Adaptive Management Working Group will monitor data and new research over time and recommend improvements to the Ordinance that may be necessary to ensure that it achieves its stated purposes to maintain the Georgetown salamander at its current or improved status.

Both nationally and locally, consistent relationships between impervious cover and water quality degradation through contaminant loading have been documented. Stormwater runoff loads were found to increase with increasing impervious cover in a study of contaminant input from various land use areas in Austin, Texas (COA 1990, pp. 12–14). This study also found that contaminant input rates of the more urbanized watersheds were higher than those of the small suburban watersheds (COA 1990, pp. 12–14). Stormwater contaminant loading is positively correlated with development intensity in Austin (Soeur *et al.* 1995, p. 565). Several different contaminant measurements were found to be positively correlated with impervious cover (5-day biochemical oxygen demand, chemical oxygen demand, ammonia, dissolved phosphorus, copper, lead, and zinc) in a study of 38 small watersheds in the Austin area (COA 2006, p. 35). Using stream data from 1958 to 2007 at 24 Austin-area sites, the COA's water quality index demonstrated a strong negative correlation with impervious cover (Glick *et al.* 2009, p. 9). Mean concentrations of most water quality constituents, such as total suspended solids and other pollutants, are lower in undeveloped watersheds than those for urban watersheds (Veenhuis and Slade 1990, pp. 18–61).

Impervious cover has demonstrable impacts on biological communities within streams. Sites receiving runoff from high impervious cover drainage areas lose sensitive aquatic macroinvertebrate species, which are replaced by species more tolerant of pollution and hydrologic stress (high rate of changes in discharges over short periods of time) (Schueler 1994, p. 104). Considerable losses of algal, invertebrate, and fish species in response to stressors brought about by urban development were documented in an analysis of nine regions across the United States (Coles *et al.* 2012, p. 58). Additionally, a strong negative relationship between impervious cover and the abundance of larval southern two-lined salamander (*Eurycea cirrigera*) was found in an analysis of 43 North Carolina streams (Miller *et al.* 2007, pp. 78–79).

Like the Georgetown and Salado salamanders, larval (juveniles that are strictly aquatic) southern two-lined salamanders are entirely aquatic salamanders within the family Plethodontidae. They are also similar to the Georgetown and Salado salamanders in morphology, physiology, size, and habitat requirements. Given these similarities, we expect a negative relationship between the abundance of Georgetown and Salado salamanders and impervious cover within the surface watersheds of these species as human population growth and development increase.

To reduce the stressors associated with impervious cover, the City of Georgetown recently adopted a water quality ordinance that requires that permanent structural water quality controls for regulated activities over the Edwards Aquifer recharge zone must remove 85 percent of total suspended solids for the entire project. This increases the amount of total suspended solids that must be removed from projects within the City of Georgetown and its ETJ by 5 percent over the existing requirements (i.e., removal of 80 percent total suspended solids) found in the Edwards Aquifer Rules. In addition, the ordinance requires that all regulated activities implement temporary best management practices (BMPs) to minimize sediment runoff during construction. Finally, the Adaptive Management Working Group is charged specifically with reviewing Georgetown salamander monitoring data and new research over time and recommending improvements to the City of Georgetown's water quality ordinance that may be necessary to ensure that it achieves its stated purposes. This Adaptive Management Working Group, which includes representatives of the Service and TPWD, will also review and make recommendations on the approval of any variances to the ordinance.

In another example from a more closely related species, the COA cited five declining Jollyville Plateau salamander populations from 1997 to 2006: Balcones District Park Spring, Tributary 3, Tributary 5, Tributary 6, and Spicewood Tributary (O'Donnell *et al.* 2006, p. 4). All of these populations occur within surface watersheds containing more than 10 percent impervious cover (Service 2013, pp. 9–11). Springs with relatively low amounts of impervious cover in their surface drainage areas (6.77 and 0 percent for Franklin and Wheless Springs, respectively) tend to have generally stable or increasing salamander populations (Bendik 2011a, pp. 18–19). Bendik (2011a, pp. 26–27) reported statistically significant declines in Jollyville Plateau salamander populations over a 13-year period at six monitored sites with high impervious cover (18 to 46 percent) compared to two sites with low impervious cover (less than 1 percent). These results are consistent with Bowles *et al.* (2006, p. 111), who found lower densities of Jollyville Plateau salamanders at urbanized sites compared to non-urbanized sites.

We recognize that the long-term survey data of Jollyville Plateau salamanders using simple counts may not give conclusive evidence on the long-term trend of the population at each site. However, based on the threats and evidence from the literature and other information available in our files (provided by peer reviewers of the Jollyville Plateau salamander listing determination), the declines in counts seen at urban Jollyville Plateau salamander sites are likely representative of real declines in the population. Because of the similarities in morphology, physiology, habitat requirements, and life history traits shared with the Jollyville Plateau salamander, we expect downward trends in Georgetown and Salado salamander populations in the future as human population growth increases within the range of these species. This human population growth is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050. As indicated by the analogies presented above, subsequent urbanization within the watersheds occupied by the Georgetown and Salado salamanders will likely cause declines in habitat quality and numbers of individuals.

Impervious Cover Analysis

For this final rule, we calculated impervious cover within the watersheds occupied by the Georgetown and Salado salamanders. In this analysis, we delineated the surface areas that drain into spring sites and which of these sites may be experiencing habitat quality degradation as a result of impervious cover in the surface drainage area. However, we only examined surface drainage areas for each spring site for the Georgetown and Salado salamanders because we did not know the recharge area for specific spring or cave sites. Also, we did not account for riparian (stream edge) buffers or stormwater runoff control measures, both of which have the potential to mitigate some of the effects of impervious cover on streams (Schueler *et al.* 2009, pp. 312–313). Please see the Service's refined impervious cover analysis (Service 2013, pp. 2–7) for a description of the methods used to conduct this analysis. This analysis may not represent the current impervious cover because small areas may have gone undetected at the resolution of our analysis and additional areas of impervious cover may have been added since 2006, which is the year the impervious cover data for our analysis were generated. We compared our results with the results of similar analyses completed by SWCA, and impervious cover percentages at individual sites from these analyses were generally higher than our own (Service 2013, Appendix C).

Impervious Cover Categories

We examined studies that report ecological responses to watershed impervious cover levels based on a variety of degradation measurements (Service 2013, Table 1, p. 4). Most studies examined biological responses to impervious cover (for example, aquatic invertebrate and fish diversity), but several studies measured chemical and physical responses as well (for example, water quality parameters and stream channel modification). In light of these studies, we created the following impervious cover categories:

- None: 0 percent impervious cover in the watershed
- Low: Greater than 0 percent to 10 percent impervious cover in the watershed
- Medium: Greater than 10 percent to 20 percent impervious cover in the watershed
- High: Greater than 20 percent impervious cover in the watershed

Sites in the Low category may still be experiencing impacts from urbanization, as cited in studies such as Coles *et al.* (2012, p. 64), King *et al.* (2011, p. 1,664), and King and Baker (2010, p. 1,002). In accordance with the findings of Bowles *et al.* (2006, pp. 113, 117–118), sites in the Medium category are likely experiencing impacts from urbanization that are negatively impacting salamander densities. Sites in the High category are so degraded that habitat recovery will either be impossible or very difficult (Schueler *et al.* 2009, pp. 310, 313).

Results of Our Impervious Cover Analysis

We estimated impervious cover percentages for each surface drainage area of a spring known to have at least one population of either a Georgetown or Salado salamander (cave locations were omitted). These estimates and

maps of the surface drainage area of spring locations are provided in our refined impervious cover analysis (Service 2013, pp. 1–25). Our analysis did not include the watersheds for Hogg Hollow Spring, Hogg Hollow II Spring, or Garey Ranch Spring because confirmation of the Georgetown salamander at these sites was not received until after the analysis was completed.

For the Georgetown salamander, a total of 12 watersheds were delineated, representing 12 spring sites. The watersheds varied greatly in size, ranging from the 1-ac (0.4-ha) watershed of Walnut Spring to the 258,017-ac (104,416-ha) watershed of San Gabriel Spring. Most watersheds (10 out of 12) were categorized as Low impervious cover. Two watersheds had no impervious cover (Knight Spring and Walnut Spring) and Swinbank Spring had the highest amount of impervious cover at 6.9 percent. The largest watershed, San Gabriel Spring, had a low proportion of impervious cover overall. However, most of the impervious cover in this watershed is in the area immediately surrounding the spring site.

The Salado salamander had a total of six watersheds delineated, representing seven different spring sites. The watersheds ranged in size from the 67-ac (27-ha) watershed of Solana Spring to 86,681-ac (35,079-ha) watershed of Big Boiling and Lil' Bubbly Springs. Five of the six watersheds were categorized as Low, and the watershed of Hog Hollow had no impervious cover. Although the largest watershed (Big Boiling and Lil' Bubbly Springs) has a low amount of impervious cover (0.41 percent), almost all of that impervious cover is located within the Village of Salado surrounding the spring site.

Although most of the watersheds in our analysis were classified as low, it is important to note that low levels of impervious cover (that is, less than 10 percent) may degrade salamander habitat. Recent studies in the eastern United States have reported large declines in aquatic macroinvertebrates (the prey base of salamanders) at impervious cover levels as low as 0.5 percent (King and Baker 2010, p. 1,002; King *et al.* 2011, p. 1,664). Several authors have argued that negative effects to stream ecosystems are seen at low levels of impervious cover and gradually increase as impervious cover increases (Booth *et al.* 2002, p. 838; Groffman *et al.* 2006, pp. 5–6; Schueler *et al.* 2009, p. 313; Coles *et al.* 2012, pp. 4, 64).

Although general percentages of impervious cover within a watershed are helpful in determining the general level of impervious cover within watersheds, it does not tell the complete story of how urbanization may be affecting salamanders or their habitat. Understanding how a salamander might be affected by water quality degradation within its habitat requires an examination of where the impervious cover occurs and what other threat sources for water quality degradation are present within the watershed (for example, non-point source runoff, highways and other sources of hazardous materials, livestock and feral hogs, and gravel and limestone mining (quarries); see discussions of these sources in their respective sections in Factor A below). For example, San Gabriel Spring's watershed (a Georgetown salamander site) has an impervious cover of only 1.2 percent, but the salamander site is in the middle of a highly urbanized area: the City of Georgetown. The habitat is in poor condition, and Georgetown salamanders have not been observed here since 1991 (Chippindale *et al.* 2000, p. 40; Pierce 2011b, pers. comm.).

In addition, the spatial arrangement of impervious cover is influential to the impacts that occur to aquatic ecosystems. Certain urban pattern variables, such as land use intensity, land cover composition, landscape configuration, and connectivity of the impervious area are important in predicting effects to aquatic ecosystems (Alberti *et al.* 2007, pp. 355–359). King *et al.* (2005, pp. 146–147) found that the closer developed land was to a stream in the Chesapeake Bay watershed, the larger the effect it had on stream macroinvertebrates. On a national scale, watersheds with development clustered in one large area (versus being interspersed throughout the watershed) and development located closer to streams had higher frequency of high-flow events (Steuer *et al.* 2010, pp. 47–48, 52). Based on these studies, it is likely that the way development is situated in the landscape of a surface drainage area of a salamander spring site plays a large role in how that development impacts salamander habitat.

One major limitation of this analysis is that we only examined surface drainage areas (watersheds) for each spring site for the Georgetown and Salado salamanders. In addition to the surface habitat, these salamanders use the subsurface habitat. Moreover, the base flow of water discharging from the springs on the surface comes from groundwater sources, which are in turn replenished by recharge features on the surface. As Shade *et al.* (2008, p. 3–4) points out, ". . . little is known of how water recharges and flows through the subsurface in the Northern Segment of the Edwards Aquifer. Groundwater flow in karst is often not controlled by surface topography and crosses beneath surface water drainage boundaries, so the sources and movements of groundwater to springs and caves are poorly understood. Such information is critical to evaluating the degree to which salamander sites can be protected from urbanization." So a recharge area for a spring may occur within the surface watershed, or it could occur many miles away in a completely different watershed. A site completely surrounded by development may still contain unexpectedly high water quality because that spring's base flow is coming from a distant recharge area that is free from impervious cover. While some dye tracer work has been done in the Northern Segment (Shade *et al.* 2008, p. 4), clearly delineated recharge areas that flow to specific springs in the Northern Segment have not been identified for any of these spring sites; therefore, we could not examine impervious cover levels on recharge areas to better understand how development in those areas may impact salamander habitat.

Impervious cover within the watersheds of the Georgetown and Salado salamanders alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation of populations with continuous exposure to water quality degradation over a relatively short time span without measures in place to reduce these threats. Although the impervious cover levels for the Georgetown and Salado salamanders remain relatively low at the present time, we expect impacts from this threat to increase in the future as urbanization expands within the surface watersheds for these species as well. This has already been observed in the closely related Jollyville Plateau salamander. Bowles *et al.* (2006, pp. 113, 117–118) found lower Jollyville Plateau salamander densities in watersheds with more than 10 percent impervious cover. Given the similar morphology, physiology, habitat requirements, and life-history traits between the Jollyville Plateau, Georgetown, and Salado salamanders, we expect that downward trends in Georgetown and Salado salamander populations will occur as human population growth increases. As previously noted, the human population is projected to increase by 377 percent in the range of the Georgetown

salamander and by 128 percent in the range of the Salado salamander by 2050. Subsequent urbanization will likely cause declines in habitat quality and numbers of individuals at sites occupied by these species. The recently adopted ordinances in the City of Georgetown may reduce these threats. The Adaptive Management Working Group will provide the monitoring and research to track whether the ordinance is helping to reduce this threat.

Hazardous Material Spills

The Edwards Aquifer is at risk from a variety of sources of contaminants and pollutants (Ross 2011, p. 4), including hazardous materials that have the potential to be spilled or leaked, resulting in contamination of both surface and groundwater resources (Service 2005, pp. 1.6–14–1.6–15). Utility structures such as storage tanks or pipelines (particularly gas and sewer lines) can accidentally discharge. Any activity that involves the extraction, storage, manufacture, or transport of potentially hazardous substances, such as fuels or chemicals, can contaminate water resources and cause harm to aquatic life. Spill events can involve a short release with immediate impacts, such as a collision that involves a tanker truck carrying gasoline. Alternatively, the release can be long-term, involving the slow release of chemicals over time, such as a leaking underground storage tank.

A peer reviewer for the proposed rule provided information from the National Response Center's database of incidents of chemical and hazardous materials spills (*http://www.nrc.uscg.mil/foia.html*) from anthropogenic activities including, but not limited to, automobile or freight traffic accidents, intentional dumping, storage tanks, and industrial facilities. The number of incidents is likely to be an underestimate of the total number of incidents because not all incidents are discovered or reported. The database produced 189 records of spill events (33 that directly affected a body of water) in Williamson County between 1990 and 2012. Our search of the database produced 49 records of spill events that all directly affected water in Bell County between 1990 and 2013. Spills that did not directly affect aquatic environments may have indirectly done so by contaminating soils within watersheds that recharge springs where salamanders are known to occur (Gillespie 2012, University of Texas, pers. comm.). The risk of this type of contamination is currently ongoing and expected to increase as urbanization continues within the ranges of the Georgetown and Salado salamanders.

Hazardous material spills pose a significant threat to the Georgetown and Salado salamanders, and impacts from spills could increase substantially under drought conditions due to lower dilution and buffering capability of impacted water bodies. Spills under low-flow conditions are predicted to have an impact at much smaller volumes (Turner and O'Donnell 2004, p. 26). A significant hazardous materials spill within stream drainages of the Georgetown or Salado salamander could have the potential to threaten its long-term survival and sustainability of multiple populations or possibly the entire species. For example, a single hazardous materials spill on Interstate Highway 35 in the Village of Salado could cause three (Big Boiling Springs, Lil' Bubbly Springs, and Lazy Days Fish Farm Springs) of the seven known Salado salamander populations to go extinct. The City of Georgetown ordinances have a requirement that new roadways providing a capacity of 25,000 vehicles per day must provide for hazardous spill containment. This measure reduces the threat of spills on larger roadways in the future. In combination with the other threats identified in this final rule, a catastrophic hazardous materials spill could contribute to the species' risk of extinction by reducing its overall probability of persistence. Furthermore, we consider hazardous material spills to be an ongoing significant threat to the Georgetown and Salado salamanders due to their limited distributions, the abundance of potential sources, and the number of salamanders that could be killed during a single spill event.

Underground Storage Tanks

The risk of hazardous material spills from underground storage tanks is widespread in Texas and is expected to increase as urbanization continues to occur. As of 1996, more than 6,000 leaking underground storage tanks in Texas had resulted in contaminated groundwater (Mace *et al.* 1997, p. 2), including a large leak in the range of the Georgetown salamander (Mace *et al.* 1997, p. 32). In 1993, approximately 6,000 gallons (22,712 liters) of gasoline leaked from an underground storage tank located near Krienke Springs in southern Williamson County, Texas, which is known to be occupied by the Jollyville Plateau salamander (Manning 1994, p. 1). The leak originated from an underground storage tank from a gas station near the salamander site. This incident illustrates that despite laws or ordinances that require all underground storage tanks to be protected against corrosion, installed properly, and equipped with spill protection and leak detection mechanisms, leaks can still occur in urbanized areas despite the precautions put in place to prevent them (Manning 1994, p. 5). As human population growth increases within the ranges of the Georgetown and Salado salamanders, such leaks could be threat to these species.

Several groundwater contamination incidents have occurred within Salado salamander habitat (Price *et al.* 1999, p. 10). Big Boiling Springs is located on the south bank of Salado Creek, near locations of past contamination events (Chippindale *et al.* 2000, p. 43). Between 1989 and 1993, at least four incidents occurred within 0.25 mi (0.4 km) from the spring site, including a 700-gallon (2,650-liter) and 400-gallon (1,514-liter) gasoline spill and petroleum leaks from two underground storage tanks associated with a gas station and a gas distributor business, respectively (Price *et al.* 1999, p. 10). Because no follow-up studies were conducted, we have no information to indicate what effect these spills had on the species or its habitat. However, between 1991 and 1998, only a single salamander was observed at Big Boiling Springs despite multiple surveys (Chippindale *et al.* 2000, p. 43; TPWD 2011, p. 2). Between 2008 and 2010, one salamander was confirmed by biologists (Gluesenkamp 2010, TPWD, pers. comm.) at Lil' Bubbly Spring, and one additional unconfirmed sighting of a Salado salamander in Big Boiling Springs was reported by a citizen of Salado, Texas.

The threat of water quality degradation from an underground storage tank alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality of the Georgetown or Salado salamander with only one exposure event. This is considered to be an ongoing threat of high impact to the Georgetown and Salado salamanders. We expect this to become a more significant threat in the future for these salamander species as urbanization continues to expand within their surface watersheds.

Highways

The transport of hazardous materials is common on many highways, which are major transportation routes (Thompson *et al.* 2011, p. 1). Every year, thousands of tons of hazardous materials are transported over Texas highways (Thompson *et al.* 2011, p. 1).

Transporters of hazardous materials (such as gasoline, cyclic hydrocarbons, fuel oils, and pesticides) carry volumes ranging from a few gallons up to 10,000 gallons (37,854 liters) or more of hazardous material (Thompson *et al.* 2011, p. 1). An accident involving hazardous materials can cause the release of a substantial volume of material over a very short period of time. As such, the capability of standard stormwater management structures (or best management practices) to trap and treat such releases might be overwhelmed (Thompson *et al.* 2011, p. 2).

Interstate Highway 35 crosses the watersheds that contribute groundwater to spring sites known to be occupied by the Georgetown and Salado salamanders. A catastrophic spill could occur if a transport truck overturned and its contents entered the recharge zone of the Northern Segment of the Edwards Aquifer. Researchers at Texas Tech University reviewed spill records to identify locations or segments of highway where spill incidents on Texas roadways are more numerous and, therefore, more likely to occur than other areas of Texas. These researchers found that one such area is a 10-mi (16-km) radius along Interstate Highway 35 within Williamson County (Thompson *et al.* 2011, pp. 25, 44). Three of the five spills reported in this area between 2000 and 2006 occurred on this highway within the City of Georgetown, and one occurred on the same highway within the City of Round Rock (Thompson *et al.* 2011, pp. 25–26, 44). As recently as 2011, a fuel tanker overturned in Georgetown and spilled 3,500 gallons (13,249 liters) of gasoline (McHenry *et al.* 2011, p. 1). A large plume of hydrocarbons was detected within the Edwards Aquifer underneath Georgetown in 1997 (Mace *et al.* 1997, p. 32), possibly the result of a leaking fuel storage tank. Thus, spills from Interstate Highway 35 are an ongoing threat source. The City of Georgetown's water quality ordinance now requires that new roadways or expansions to existing roadways that provide a capacity of 25,000 vehicles per day and are located on the Edwards Aquifer recharge zone must provide for spill containment as described in TCEQ's Optional Enhanced Measures. This measure will reduce the threat of hazardous spills on new roadways or expansions but does not address the threat from existing roadways.

Transportation accidents involving hazardous materials spills at bridge crossings are of particular concern because recharge areas in creek beds can transport contaminants directly into the aquifer (Service 2005, p. 1.6–14). Salado salamander sites located downstream of Interstate Highway 35 may be particularly vulnerable due to their proximity to this major transportation corridor. Interstate Highway 35 crosses Salado Creek just 760 to 1,100 ft (231 to 335 m) upstream from three spring sites (Big Boiling Springs, Lil' Bubbly Springs, and Lazy Days Fish Farm Springs) where the Salado salamander is known to occur. The highway also crosses the surface watershed of an additional Salado salamander site, Robertson Spring. Should a hazardous materials spill occur at the Interstate Highway 35 bridge that crosses at Salado Creek or over the watershed of Robertson Spring, the Salado salamander could be at risk from contaminants entering the water flowing into its surface habitat downstream.

In addition, the Texas Department of Transportation is reconstructing a section of Interstate Highway 35 within the Village of Salado (Najvar 2009, Service, pers. comm.). This work includes the replacement of four bridges that cross Salado Creek (two main lane bridges and two frontage road bridges) in an effort to widen the highway at this location. This project could affect the risk of hazardous materials spills and runoff into Salado Creek upstream of known Salado salamander locations. In August 2009, the Texas Department of Transportation began working with the Service to identify measures, such as the installation of permanent water quality control mechanisms to contain runoff, to protect the Salado salamander and its habitat from the effects of this project (Najvar 2009, Service, pers. comm.).

The threat of water quality degradation from highways alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality of any of the four central Texas salamander species with only one exposure event. We consider this to be an ongoing threat of high impact to the Georgetown and Salado salamanders. Given the amount of urbanization predicted for Williamson and Bell Counties, Texas, the risk of exposure from this threat is expected to increase in the future as well.

Water and Sewage Lines

Sewage spills often include contaminants such as nutrients, polycyclic aromatic hydrocarbons (PAHs), metals, pesticides, pharmaceuticals, and high levels of fecal coliform bacteria (Turner and O'Donnell 2004, p. 27). Increased ammonia levels and reduced dissolved oxygen are the most likely impacts of a sewage spill that could cause rapid mortality of large numbers of salamanders (Turner and O'Donnell 2004, p. 27). Fecal coliform bacteria from sewage spills cause diseases in salamanders and their prey base (Turner and O'Donnell 2004, p. 27). Municipal water lines that convey treated drinking water throughout the surrounding areas of Georgetown and Salado salamander habitat could break and potentially flow into surface or subsurface habitat, exposing salamanders to chlorine concentrations that are potentially toxic. A typical chlorine concentration in a water line is 1.5 mg/L, and a lethal concentration of chloride for the related San Marcos salamander is 0.088 mg/L (Herrington and Turner 2009, p. 1).

The Georgetown salamander is particularly exposed to the threat of water and sewage lines. As of the date of this rule, there are eight water treatment plants within the Georgetown city limits, with wastewater and chlorinated drinking water lines running throughout Georgetown salamander stream drainages (City of Georgetown 2008, p. 3.37). A massive wastewater line is being constructed in the South San Gabriel River drainage (City of Georgetown 2008, p. 3.22), which is within the watershed of one known Georgetown salamander site. Almost 700 septic systems were permitted or inspected in Georgetown in 2006 (City of Georgetown 2008, p. 3.36). Service staff also noted a sewage line that runs nearby Bat Well Cave. Data submitted to the Service during our comment period (SWCA 2012, p. 20) indicated that one Georgetown salamander site (Cedar Breaks Spring) had a concentration of fecal coliform bacteria [83,600 colony-forming units per 100 milliliters (cfu/100mL)] 418 times the concentration that the Service recommended to be protective of federally listed salamanders (200 cfu/100mL) (White *et al.* 2006, p. 51). It is unknown if this elevated concentration of fecal coliform bacteria was the result of a sewage or septic spill, or what impact this poor water quality had on the Cedar Breaks Spring population.

Spills from sewage and water lines have been documented in the past in the central Texas area within the ranges of closely related salamander species. There are 9,470 known septic facilities in the Barton Springs Segment of the Edwards Aquifer as of 2010 (Herrington *et al.* 2010, p. 5), up from 4,806 septic systems in 1995 (COA 1995, p. 3–13). In one COA survey of these septic systems, over 7 percent were identified as failing (no longer functioning properly, causing

water from the septic tank to leak out and accumulate on the ground surface) (COA 1995, p. 3–18). Sewage spills from pipelines also have been documented in watersheds supporting Jollyville Plateau salamander populations (COA 2001, pp. 16, 21, 74). For example, in 2007, a sewage line overflowed an estimated 50,000 gallons (190,000 liters) of raw sewage into the Stillhouse Hollow drainage area of Bull Creek below the area where salamanders are known to occur (COA 2007b, pp. 1–3). The human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050. We expect that subsequent urbanization will increase the prevalence of water and sewage systems within the areas where Georgetown and Salado salamander populations are known to occur, and thereby increase the exposure of salamanders to this threat source.

The threat of water quality degradation from water and sewage lines alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality with only one exposure event. We consider this to be an ongoing threat of high impact to the Georgetown salamander that is likely to increase in the future as urbanization expands within the ranges of these species. Although we are unaware of any information that indicates water and sewage lines are located in areas that could impact Salado salamanders if spills occurred, we expect this to become a significant threat in the future for this species as urbanization continues to expand within its surface watersheds.

Construction Activities

Short-term increases in pollutants, particularly sediments, can occur during construction in areas of new development. When vegetation is removed and rain falls on unprotected soils, large discharges of suspended sediments can erode from newly exposed areas, resulting in increased sedimentation in downstream drainage channels (Schueler 1987, pp. 1–4; Turner 2003, p. 24; O'Donnell *et al.* 2005, p. 15). This increased sedimentation from construction activities has been linked to declines in Jollyville Plateau salamander counts at multiple sites (Turner 2003, p. 24; O'Donnell *et al.* 2006, p. 34).

Cave sites are also impacted by construction, as Testudo Tube Cave (Jollyville Plateau salamander habitat) showed an increase in nickel, calcium, and nitrates/nitrites after nearby road construction (Richter 2009, pp. 6–7). Barton Springs (Austin blind salamander habitat) is also under the threat of pollutant loading due to its proximity to construction activities and the spring's location at the downstream side of the watershed (COA 1997, p. 237). The COA (1995, pp. 3–11) estimated that construction-related sediment and in-channel erosion accounted for approximately 80 percent of the average annual sediment load in the Barton Springs watershed. In addition, the COA (1995, pp. 3–10) estimated that total suspended sediment loads have increased 270 percent over pre-development loadings within the Barton Springs Segment of the Edwards Aquifer. Because the Jollyville Plateau and Barton Springs salamanders are similar to the Georgetown and Salado salamander with regard to size, morphology, physiology, life history traits and habitat requirements, we expect similar declines to occur for the Georgetown and Salado salamanders from construction activities as the human population growth increases and subsequent development follows within surface watersheds of these species.

At this time, we are not aware of any studies that have examined sediment loading due to construction activities within the watersheds of Georgetown or Salado salamander habitats. However, because construction occurs and is expected to continue in many of these watersheds occupied by the Georgetown and Salado salamanders as the human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050, we have determined that the threat of construction in areas of new development applies to these species as well. The City of Georgetown's water quality ordinance now requires stream buffers for all streams in the Edwards Aquifer recharge zone within the City of Georgetown and its ETJ that drain more than 64 acres (26 ha). These buffers are similar to those required under similar water quality regulations in central Texas and will help reduce the amount of sediment and other pollutants that enter waterways.

The ordinance also requires that permanent structural water quality controls for regulated activities over the Edwards Aquifer recharge zone must remove 85 percent of total suspended solids for the entire project. This increases the amount of total suspended solids that must be removed from projects within the City of Georgetown and its ETJ by 5 percent over the existing requirements (i.e., removal of 80 percent total suspended solids) found in the Edwards Aquifer Rules. Lastly, the ordinance requires that all developments implement temporary BMPs to minimize sediment runoff during construction. Construction is intermittent and temporary, but it affects both surface and subsurface habitats and is occurring throughout the ranges of these salamanders. Therefore, we have determined that this threat is ongoing and will continue to affect the Georgetown and Salado salamanders and their habitats in the future.

Also, the physical construction of pipelines, shafts, wells, and similar structures that penetrate the subsurface has the potential to negatively affect subsurface habitat for salamander species. It is known that the Georgetown and Salado salamanders inhabit the subsurface environment and that water flows through the subsurface to the surface habitat. Tunneling for underground pipelines can destroy potential habitat by removing subsurface material, thereby destroying subsurface spaces/conduits in which salamanders can live, grow, forage, and reproduce. Additional material can become dislodged and result in increased sediment loading into the aquifer and associated spring systems. In addition, disruption of water flow to springs inhabited by salamanders can occur through the construction of tunnels and vertical shafts to access them. Because of the complexity of the aquifer and subsurface structure and because detailed maps of the underground conduits that feed springs in the Edwards Aquifer are not available, tunnels and shafts have the possibility of intercepting and severing those conduits (COA 2010a, p. 28). Affected springs could rapidly become dry and would not support salamander populations. The closer a shaft or tunnel location is to a spring, the more likely that the construction will impact a spring (COA 2010a, p. 28). Even small shafts pose a threat to nearby spring systems. As the human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050, we expect subsurface construction of pipelines, shafts, wells, and similar structures to be a threat to their surface and subsurface habitats. However, under the City of Georgetown's water quality ordinance, these types of activities will no longer be permitted within 262 ft (80

m) of occupied Georgetown salamander sites.

The threat of water quality degradation from construction activities alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality of the salamander species with only one exposure event (if subsurface flows were interrupted or severed) or with repeated exposure over a relatively short time span. From information available in our files and provided to us during the peer review and public comment period for the proposed rule, we found that 3 of the 17 Georgetown salamander sites have been known to have had construction activities around their perimeters, and 1 has been modified within the spring site itself. Construction activities have led to physical habitat modification in at least three of the seven known Salado salamander spring sites. Even though the impacts of water quality degradation from construction activities is reduced by the City of Georgetown's water quality ordinance, we consider future construction activities to be an ongoing threat of high impact to both the Georgetown and Salado salamanders that are likely to increase as urbanization expands within their respective surface watersheds.

Quarries

Construction activities within rock quarries can permanently alter the geology and groundwater hydrology of the immediate area, and adversely affect springs that are hydrologically connected to impacted sites (Ekmekci 1990, p. 4; van Beynan and Townsend 2005, p. 104; Humphreys 2011, p. 295). Limestone rock is an important raw material that is mined in quarries all over the world due to its popularity as a building material and its use in the manufacture of cement (Vermeulen and Whitten 1999, p. 1). The potential environmental impacts of quarries include destruction of springs or collapse of karst caverns, as well as impacts to water quality through siltation and sedimentation, and impacts to water quantity through water diversion, dewatering, and reduced flows (Ekmekci 1990, p. 4; van Beynan and Townsend 2005, p. 104). The mobilization of fine materials from quarries can lead to the occlusion of voids and the smothering of surface habitats for aquatic species downstream (Humphreys 2011, p. 295).

Quarry activities can also generate pollution in the aquatic ecosystem through leaks or spills of waste materials from mining operations (such as petroleum products) (Humphreys 2011, p. 295). For example, a spill of almost 3,000 gallons (11,356 liters) of diesel from an above-ground storage tank occurred on a limestone quarry in New Braunfels, Texas (about 4.5 mi (7.2 km) from Comal Springs in the Southern Segment of the Edwards Aquifer) in 2000 (Ross *et al.* 2005, p. 14). Also, perchlorate (a chemical used in producing explosives used in quarries) contamination was detected in the City of Georgetown public water supply wells in November 2003. A total of 46 private and public water wells were sampled in December 2004 in Williamson County (Berehe 2005, p. 44). Out of these, five private wells had detections of perchlorate above the TCEQ interim action levels of 4.0 parts per billion (ppb). Four surface water (spring) samples had detection ranging from 6.3 to 9.2 ppb (Berehe 2005, p. 44). Perchlorate is known to affect thyroid functions, which are responsible for helping to regulate embryonic growth and development in vertebrate species (Smith *et al.* 2001, p. 306). Aquatic organisms inhabiting perchlorate-contaminated surface water bodies contain detectable concentrations of perchlorate (Smith *et al.* 2001, pp. 311–312). Perchlorate has been shown to cause malformations in embryos, delay larval growth and development, and decrease reproductive success in laboratory studies in the African clawed frog (*Xenopus laevis*) (Dumont 2008, pp. 5, 8, 12, 19). Because the thyroid has the same function in salamander physiology as it does for the African clawed frog, we expect perchlorate to affect the Georgetown and Salado salamanders in a similar manner.

Limestone is a common geologic feature of the Edwards Aquifer, and active quarries exist throughout the region. For example, at least 3 of the 17 Georgetown salamander sites (Avant Spring, Knight [Crockett Gardens] Spring, and Cedar Breaks Hiking Trail Spring) occur adjacent to a limestone quarry that has been active since at least 1995. Avant Spring is within 328 ft (100 m) and Knight and Cedar Breaks Hiking Trail Springs are each between 1,640 and 2,624 ft (500 and 800 m) from the quarry. The population status of the Georgetown salamander is unknown at Knight Spring and Cedar Breaks Hiking Trail Spring, but salamanders are seen infrequently and in low abundance at the closest spring to the quarry (Avant Spring; Pierce 2011c, Southwestern University, pers. comm.). In total, there are currently quarries located in the watersheds of 5 of the 12 Georgetown salamander surface sites and 5 of the 7 Salado salamander sites. Therefore, we consider this to be an ongoing threat of high impact given the exposure risk of this threat to the Georgetown and Salado salamanders that could worsen as quarries expand in the future.

Contaminants and Pollutants

Contaminants and pollutants are stressors that can affect individual salamanders or their habitats or their prey. They find their way into aquatic habitat through a variety of ways, including stormwater runoff, point (a single identifiable source) and non-point (coming from many diffuse sources) discharges, and hazardous material spills (Coles *et al.* 2012, p. 21). For example, sediments eroded from soil surfaces as a result of stormwater runoff can concentrate and transport contaminants (Mahler and Lynch 1999, p. 165). The Georgetown and Salado salamanders and their prey species are directly exposed to sediment-borne contaminants present within the aquifer and discharging through the spring outlets. For example, in addition to sediment, trace metals such as arsenic, cadmium, copper, lead, nickel, and zinc were found in Barton Springs in the early 1990s (COA 1997, pp. 229, 231–232). Such contaminants associated with sediments are known to negatively affect survival and growth of an amphipod species, which are part of the prey base of the Georgetown and Salado salamanders (Ingersoll *et al.* 1996, pp. 607–608; Coles *et al.* 2012, p. 50). In addition, various industrial and municipal activities result in the discharge of treated wastewater or unintentional release of industrial contaminants as point source pollution. Urban environments are host to a variety of human activities that generate many types of sources for contaminants and pollutants. These substances, especially when combined, often degrade nearby waterways and aquatic resources within the watershed (Coles *et al.* 2012, pp. 44–53).

As a karst aquifer system, the Edwards Aquifer is more vulnerable to the effects of contamination due to: (1) A large number of conduits that offer no filtering capacity, (2) high groundwater flow velocities, and (3) the relatively short amount of time that water is inside the aquifer system (Ford and Williams 1989, pp. 518–519). These characteristics of the aquifer allow contaminants in the watershed to enter and move through the aquifer more easily, thus reaching salamander habitat within spring sites more quickly than other types of aquifer systems.

Amphibians, especially their eggs and larvae (which are usually restricted to a small area within an aquatic environment), are sensitive to many different aquatic pollutants (Harfenist *et al.* 1989, pp. 4–57). Contaminants found in aquatic environments, even at sublethal concentrations, may interfere with a salamander's ability to develop, grow, or reproduce (Burton and Ingersoll 1994, pp. 120, 125). Salamanders in the central Texas region are particularly vulnerable to contaminants, because they have evolved under very stable environmental conditions, remain aquatic throughout their entire life cycle, have highly permeable skin, have severely restricted ranges, and cannot escape contaminants in their environment (Turner and O'Donnell 2004, p. 5). In addition, macroinvertebrates, such as small freshwater crustaceans (amphipods and copepods), that aquatic salamanders feed on are especially sensitive to water pollution (Phipps *et al.* 1995, p. 282; Miller *et al.* 2007, p. 74; Coles *et al.* 2012, pp. 64–65). For example, studies in the Bull Creek watershed in Austin, Texas, found a loss of some sensitive macroinvertebrate species, potentially due to contaminants of nutrient enrichment and sediment accumulation (COA 2001, p. 15; COA 2010b, p. 16). Below, we discuss specific contaminants and pollutants that may be impacting the Georgetown and Salado salamanders.

Polycyclic Aromatic Hydrocarbons

Polycyclic aromatic hydrocarbons (PAHs) are a common form of aquatic contaminants in urbanized areas that could affect salamanders, their habitat, or their prey. This form of pollution can originate from petroleum products, such as oil or grease, or from atmospheric deposition as a byproduct of combustion (for example, vehicular combustion). These pollutants accumulate over time on impervious cover, contaminating water supplies through urban and highway runoff (Van Metre *et al.* 2000, p. 4,067; Albers 2003, pp. 345–346). Although information is lacking on PAH loading in Williamson and Bell Counties, research shows that the main source of PAH loading in Austin-area streams is parking lots with coal tar emulsion sealant, even though this type of lot only covers 1 to 2 percent of the watersheds (Mahler *et al.* 2005, p. 5,565). A recent analysis of the rate of wear on coal tar lots revealed that the sealcoat wears off relatively quickly and contributes more to PAH loading than previously thought (Scoggins *et al.* 2009, p. 4,914).

Petroleum and petroleum byproducts can adversely affect living organisms by causing direct toxic action, altering water chemistry, reducing light, and decreasing food availability (Albers 2003, p. 349). Exposure to PAHs at certain levels can cause impaired reproduction, reduced growth and development, and tumors or cancer in species of amphibians, reptiles, and other organisms (Albers 2003, p. 354). Coal tar pavement sealant slowed hatching, growth, and development of a frog (*Xenopus laevis*) in a laboratory setting (Bryer *et al.* 2006, pp. 244–245). High concentrations of PAHs from coal tar sealant negatively affected the righting ability (amount of time needed to flip over after being placed on back) of adult eastern newts (*Notophthalmus viridescens*) and may have also damaged the newt's liver (Sparling *et al.* 2009, pp. 18–20). For juvenile spotted salamanders (*Ambystoma maculatum*), PAHs reduced growth in the lab (Sparling *et al.* 2009, p. 28). Bommarito *et al.* (2010, pp. 1,151–1,152) found that spotted salamanders displayed slower growth rates and diminished swimming ability when exposed to PAHs. These contaminants are also known to cause death, reduced survival, altered physiological function, inhibited reproduction, and changes in community composition of freshwater invertebrates (Albers 2003, p. 352). From the information available above, we conclude that PAHs are known to cause disruptions to the survival, growth, development, and reproduction in a variety of amphibian species and alterations to their prey base of aquatic invertebrates. Therefore, the same effects are expected to occur to the Georgetown and Salado salamanders when exposed to PAHs.

This form of aquatic contaminant has already been documented in the central Texas area within the urbanized ranges of closely related salamander species. Limited sampling by the COA has detected PAHs at concentrations of concern at multiple sites within the range of the Jollyville Plateau salamander. Most notable were the levels of nine different PAH compounds at the Spicewood Springs site in the Shoal Creek drainage area, which were above concentrations known to adversely affect aquatic organisms (O'Donnell *et al.* 2005, pp. 16–17). The Spicewood Springs site is located within an area with greater than 30 percent impervious cover and down gradient from a commercial business that changes vehicle oil. This is also one of the sites where salamanders have shown declines in abundance (from an average of 12 individuals per visit in 1997 to an average of 2 individuals in 2005) during the COA's long-term monitoring studies (O'Donnell *et al.* 2006, p. 47). Another study found several PAH compounds in seven Austin-area streams, including Barton, Bull, and Walnut Creeks, downstream of coal tar sealant parking lots (Scoggins *et al.* 2007, p. 697). Sites with high concentrations of PAHs (located in Barton and Walnut Creeks) had fewer macroinvertebrate species and lower macroinvertebrate density (Scoggins *et al.* 2007, p. 700). This form of contamination has also been detected at Barton Springs, which is the Austin blind salamander's habitat (COA 1997, p. 10).

The threat of water quality degradation from PAH exposure alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality of any of the Georgetown and Salado salamander sites with continuous or repeated exposure. In some instances, exposure to PAH contamination could negatively impact a salamander population in combination with exposure to other sources of water quality degradation, resulting in significant habitat declines or other significant negative impacts (such as loss of invertebrate prey species). We consider water quality degradation from PAH contamination to be a threat of high impact to Georgetown and Salado salamanders now and in the future as urbanization increases within these species' surface watersheds.

Pesticides

Pesticides (including herbicides and insecticides) are also associated with urban areas. Sources of pesticides include lawns, road rights-of-way, and managed turf areas, such as golf courses, parks, and ball fields. Pesticide application is also common in residential, recreational, and agricultural areas. Pesticides have the potential to leach into groundwater through the soil or be washed into streams by stormwater runoff. Pesticides are known to impact amphibian species in a number of ways. For example, Reylea (2009, p. 370) demonstrated that diazinon reduces growth and development in larval amphibians. Another pesticide, carbaryl, causes mortality and deformities in larval streamside salamanders (*Ambystoma barbouri*) (Rohr *et al.* 2003, p. 2,391). The Environmental Protection Agency (EPA) (2007, p. 9) also found that carbaryl is likely to adversely affect the

Barton Springs salamander both directly and indirectly through reduction of prey. Additionally, atrazine has been shown to impair sexual development in male amphibians (African clawed frogs) at concentrations as low as 0.1 parts per billion (Hayes 2002, p. 5,477). Atrazine levels were found to be greater than 0.44 parts per billion after rainfall in Barton Springs Pool (Mahler and Van Mere 2000, pp. 4, 12). From the information available above, we conclude that pesticides are known to cause disruptions to the survival, growth, development, and reproduction in a variety of amphibian species. Therefore, we conclude such effects may occur to the Georgetown and Salado salamanders when exposed to pesticides as well.

We acknowledge that in 2007 a Scientific Advisory Panel (SAP) of the EPA reviewed the available information on atrazine effects on amphibians and concluded that atrazine concentrations less than 100 µg/L had no effects on clawed frogs. However, the 2012 SAP is currently re-examining the conclusions of the 2007 SAP using a meta-analysis of published studies along with additional studies on more species (EPA 2012, p. 35). The 2012 SAP expressed concern that some studies were discounted in the 2007 SAP analysis, including studies like Hayes (2002, p. 5,477) that indicated that atrazine is linked to endocrine (hormone) disruption in amphibians (EPA 2012, p. 35). In addition, the 2007 SAP noted that their results on clawed frogs are insufficient to make global conclusions about the effects of atrazine on all amphibian species (EPA 2012, p. 33). Accordingly, the 2012 SAP has recommended further testing on at least three amphibian species before a conclusion can be reached that atrazine has no effect on amphibians at concentrations less than 100 µg/L (EPA 2012, p. 33). Due to potential differences in species sensitivity, exposure scenarios that may include dozens of chemical stressors simultaneously, and multigenerational effects that are not fully understood, we continue to view pesticides, including carbaryl, atrazine, and many others to which aquatic organisms may be exposed, as a potential threat to water quality, salamander health, and the health of aquatic organisms that comprise the diet of salamanders.

The threat of water quality degradation from pesticide exposure alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality of the Georgetown and Salado salamanders. In some instances, exposure to pesticide contamination could negatively impact a salamander population in combination with exposure to other sources of water quality degradation, resulting in significant habitat declines or other significant negative impacts (such as loss of invertebrate prey species). Although the best available information does not indicate that pesticides have been detected in the aquatic environments within the ranges of the Georgetown and Salado salamanders to date (SWCA 2012, pp. 17–18), we expect this to become a significant threat in the future for these species as the human population expands within their surface watersheds.

Nutrients

Nutrient input (such as phosphorus and nitrogen) to watershed drainages, which often results in abnormally high organic growth in aquatic ecosystems, can originate from multiple sources, such as human and animal wastes, industrial pollutants, and fertilizers (from lawns, golf courses, or croplands) (Garner and Mahler 2007, p. 29). As the human population grows and subsequent urbanization occurs within the ranges of the Georgetown and Salado salamanders, they will likely become more susceptible to the effects of excessive nutrients within their habitats because their exposure increases. To illustrate, an estimated 102,262 domestic dogs and cats (pet waste is a potential source of excessive nutrients) were known to occur within the Barton Springs Segment of the Edwards Aquifer in 2010 (Herrington *et al.* 2010, p. 15). Their distributions were correlated with human population density (Herrington *et al.* 2010, p. 15).

Human population growth will bring about an increase in the use of nutrients that are harmful to aquatic species, such as the Georgetown and Salado salamanders. This was the case as urban development increased within the Jollyville Plateau salamander's range. Various residential properties and golf courses use fertilizers to maintain turf grass within watersheds where Jollyville Plateau salamander populations are known to occur (COA 2003, pp. 1–7). Analysis of water quality attributes conducted by the COA (1997, pp. 8–9) showed significant differences in nitrate, ammonia, total dissolved solids, total suspended solids, and turbidity concentrations between watersheds dominated by golf courses, residential land, and rural land. Golf course tributaries were found to have higher concentrations of these constituents than residential tributaries, and both golf course and residential tributaries had substantially higher concentrations for these five water quality attributes than rural tributaries (COA 1997, pp. 8–9).

Residential irrigation of wastewater effluent is another source that leads to excessive nutrient input aquatic systems, as has been identified in the recharge and contributing zones of the Barton Springs Segment of the Edwards Aquifer (Ross 2011, pp. 11–18; Mahler *et al.* 2011, pp. 16–23). Wastewater effluent permits do not require treatment to remove metals, pharmaceutical chemicals, or the wide range of chemicals found in body care products, soaps, detergents, pesticides, or other cleaning products (Ross 2011, p. 6). These chemicals remaining in treated wastewater effluent can enter streams and the aquifer and alter water quality within salamander habitat. A USGS study found nitrate concentrations in Barton Springs and the five streams that provide most of its recharge much higher during 2008 to 2010 than before 2008 (USGS 2011, pp. 1–4). Additionally, nitrate levels in water samples collected between 2003 and 2010 from Barton Creek tributaries exceeded TCEQ screening levels and were identified as screening level concerns (TCEQ 2012a, p. 344). The rapid development over the Barton Springs contributing zone since 2000 was associated with an increase in the generation of wastewater (Mahler *et al.* 2011, p. 29). Septic systems and land-applied treated wastewater effluent are likely sources contributing nitrate to the recharging streams (Mahler *et al.* 2011, p. 29).

As of November 2010, the permitted volume of irrigated flow in the contributing zone of the Barton Springs Segment of the Edwards Aquifer was 3,300,000 gallons (12,491 kiloliters) per day. About 95 percent of that volume was permitted during 2005 to 2010 (Mahler *et al.* 2011, p. 30). As the human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050, we expect the permitted volume of irrigated flow of wastewater effluent in the contributing zone of the Northern Segment of the Edwards Aquifer to increase considerably.

Excessive nutrient input into aquatic systems can increase plant growth (including algae blooms), which pulls more oxygen out of the water when the dead plant matter decomposes, resulting in less oxygen being available in the water for salamanders to breathe (Schueler 1987, pp. 1.5–1.6; Ross 2011,

p. 7). A reduction in dissolved oxygen concentrations could not only affect respiration in salamander species, but also lead to decreased metabolic functioning and growth in juveniles (Woods *et al.* 2010, p. 544), or death (Ross 2011, p. 6). Excessive plant material can also reduce stream velocities and increase sediment deposition (Ross 2011, p. 7). When the interstitial spaces become compacted or filled with fine sediment, the amount of available foraging habitat and protective cover is reduced (Welsh and Ollivier 1998, p. 1,128).

Increased nitrate levels have been known to affect amphibians by altering feeding activity and causing disequilibrium and physical abnormalities (Marco *et al.* 1999, p. 2,837). Nitrate toxicity studies have indicated that salamanders and other amphibians are sensitive to these pollutants (Marco *et al.* 1999, p. 2,837). Some studies have indicated that nitrate concentrations between 1.0 and 3.6 mg/L can be toxic to aquatic organisms (Rouse 1999, p. 802; Camargo *et al.* 2005, p. 1,264; Hickey *et al.* 2009, pp. ii, 17–18). Nitrate concentrations have been documented within this range (1.85 mg/L) at one Salado salamander site (Lazy Days Fish Farm, which is reported as Critchfield Springs in Norris *et al.* 2012, p. 14) and higher than this range (4.05 mg/L, 4.28 mg/L, and 4.21 mg/L) at three Salado salamander sites (Big Boiling, Lil' Bubbly, and Robertson Springs, respectively) (Norris *et al.* 2012, pp. 23–25). Likewise, nitrate samples taken at a Georgetown salamander site (Swinbank Springs) were found to be as high as 3.32 mg/L (SWCA 2012, pp. 15, 20). For comparison, nitrate levels in undeveloped Edwards Aquifer springs (watersheds without high levels of urbanization) are typically close to 1 mg/L (O'Donnell *et al.* 2006, p. 26). From the information available on the effects of elevated nitrate levels on amphibian species, we conclude that the salamanders at these sites may be experiencing impairments to their respiratory, metabolic, and feeding capabilities.

We also assessed the risk of exposure to sources of excessive nutrient input for the Georgetown and Salado salamanders by examining 2012 Google Earth aerial imagery. For the 12 known surface sites of the Georgetown salamander, we found 3 have golf courses; 3 have livestock; and we assumed that 10 of the surface watersheds are accessible to feral hogs given that they are common across the landscape and because we could not identify any fencing that would exclude them from these areas. In addition, we found that surface watersheds for six of the seven known Salado salamander sites have livestock access. We also assumed these six surface watersheds contain feral hogs.

The threat of water quality degradation from excessive nutrient exposure alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality of any of the Georgetown and Salado salamanders with continuous or repeated exposure. In some instances, exposure to excessive nutrient exposure could negatively impact a salamander population in combination with exposure to other sources of water quality degradation, resulting in significant habitat declines. The City of Georgetown's water quality ordinance requires that permanent structural water quality controls for regulated activities over the Edwards Aquifer recharge zone must remove 85 percent of total suspended solids for the entire project. This increases the amount of total suspended solids that must be removed from projects within the City of Georgetown and its ETJ by 5 percent over the existing requirements (i.e. removal of 80 percent total suspended solids) found in the Edwards Aquifer Rules. Although structural water quality controls are generally less efficient at removing nutrients from stormwater, by increasing the required removal of total suspended solids, the implementation of the ordinance will result in an increase in the amount of nutrients removed from stormwater. In addition, the ordinance now requires stream buffers for all streams in the Edwards Aquifer recharge zone within the City of Georgetown and its ETJ that drain more than 64 ac (26 ha). These buffers are similar to those required under similar water quality regulations in central Texas and will help reduce the amount of nutrients and other pollutants that enter waterways. However, we still consider excessive nutrient exposure to be an ongoing threat of high impact for the Georgetown and Salado salamanders that is likely to continue in the future.

Changes in Water Chemistry

Conductivity

Conductivity is a measure of the ability of water to carry an electrical current and can be used to approximate the concentration of dissolved inorganic solids in water that can alter the internal water balance in aquatic organisms, affecting the four central Texas salamanders' survival. Conductivity levels in the Edwards Aquifer are naturally low, ranging from approximately 550 to 700 microsiemens per centimeter ($\mu S\ cm^{-1}$) (derived from several conductivity measurements in two references: Turner 2005, pp. 8–9; O'Donnell *et al.* 2006, p. 29). As ion concentrations, such as chlorides, sodium, sulfates, and nitrates rise, conductivity will increase. These compounds are the chemical products or byproducts of many common pollutants that originate from urban environments (Menzer and Nelson 1980, p. 633), which are often transported to streams via stormwater runoff from impervious cover. This combined with the stability of the measured ions makes conductivity an excellent monitoring tool for assessing the impacts of urbanization to overall water quality.

Conductivity can be influenced by weather. Rainfall serves to dilute ions and lower conductivity while drought has the opposite effect. The trends of increasing conductivity in urban watersheds were evident under baseflow conditions and during a period when precipitation was above average in all but 3 years, so drought was not a factor (NOAA 2013, pp. 1–7). The COA also monitored water quality as impervious cover increased in several subdivisions with known Jollyville Plateau salamander sites between 1996 and 2007. They found increasing ions (calcium, magnesium, and bicarbonate) and nitrates with increasing impervious cover at four Jollyville Plateau salamander sites and as a general trend during the course of the study from 1997 to 2006 (Herrington *et al.* 2007, pp. 13–14). These results indicate that developed watersheds can alter the water chemistry within salamander habitats.

High conductivity has been associated with declining salamander abundance in a species that is closely related to the Georgetown and Salado salamanders. For example, three of the four sites with statistically significant declining Jollyville Plateau salamander counts from 1997 to 2006 are cited as having high conductivity readings (O'Donnell *et al.* 2006, p. 37). Similar correlations were shown in studies comparing developed and undeveloped sites from 1996 to 1998 (Bowles *et al.* 2006, pp. 117–118). This analysis found significantly lower numbers of salamanders and significantly higher measures of specific conductance at developed sites as compared to undeveloped sites (Bowles *et al.* 2006, pp. 117–118). Tributary 5 of Bull Creek has had an increase in conductivity, chloride, and sodium and a decrease in

invertebrate diversity from 1996 to 2008 (COA 2010b, p. 16). Only one Jollyville Plateau salamander has been observed here from 2009 to 2010 in quarterly surveys (Bendik 2011a, p. 16). A separate analysis found that ions such as chloride and sulfate increased in Barton Creek despite the enactment of city-wide water quality control ordinances (Turner 2007, p. 7). Poor water quality, as measured by high specific conductance and elevated levels of ion concentrations, is cited as one of the likely factors leading to statistically significant declines in salamander counts at the COA's long-term monitoring sites (O'Donnell *et al.* 2006, p. 46). Because the Jollyville Plateau salamander is similar to the Georgetown and Salado salamanders with regard to morphology, physiology, habitat requirements, and life history traits, we expect similar declines of Georgetown and Salado salamanders as impervious cover increases within Williamson and Bell Counties, Texas. The human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050, so we expect that conductivity levels within the areas where Georgetown and Salado salamander populations are known to occur will increase the exposure of salamanders to this stressor.

The threat of water quality degradation from high conductivity alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines or extirpation in local populations or significant declines in habitat quality of the Georgetown and Salado salamanders with continuous or repeated exposure. In some instances, exposure to high conductivity could negatively impact a salamander population in combination with exposure to other sources of water quality degradation, resulting in significant habitat declines. Although the best available information does not indicate that increased conductivity is occurring within the ranges of the Georgetown and Salado salamanders to date (SWCA 2012, p. 19), we expect this to become a significant threat in the future for these species as urbanization continues to expand within their surface watersheds.

Changes in Prey Base Community

As noted above, stressors from urbanization such as contaminants can alter the invertebrate community of a water body by replacing sensitive species with species that are more tolerant of pollution (Schueler 1994, p. 104; Coles *et al.* 2012, pp. 4, 58). This shift in community can have negative, indirect effects on Georgetown and Salado salamander populations. Studies on closely related species of salamanders have shown these predators to be sensitive to changes in the species composition of their prey base. For example, Johnson and Wallace (2005, pp. 305–306) found that when the Blue Ridge two-lined salamander (*Eurycea wilderae*) fed on an altered composition of prey species, salamander densities were lower compared to salamanders feeding on an unaltered prey community. The researchers partly attributed this difference in density to reduced larval growth caused by the lack of nutrition in the diet (Johnson and Wallace 2005, p. 309). Another study on the Tennessee cave salamander (*Gyrinophilus palleucus*) found the prey composition of salamanders within one cave differed from another cave, and this difference resulted in significant differences in salamander densities and biomass (Huntsman *et al.* 2011, pp. 1750–1753). Based on this literature, we conclude that the species composition of invertebrates is an important factor in determining the health of Georgetown and Salado salamander populations. Although the best available information does not indicate shifting invertebrate communities within the ranges of the Georgetown and Salado salamanders, we expect this to become a significant threat in the future for these species as urbanization continues to expand within their surface watersheds.

Water Quantity Degradation

Water quantity decreases and spring flow declines are considered threats to *Eurycea* salamanders (Corn *et al.* 2003, p. 36; Bowles *et al.* 2006, p. 111) because drying spring habitats can cause salamanders to be stranded, resulting in death of individuals (O'Donnell *et al.* 2006, p. 16). It is also known that prey availability is low underground due to the lack of primary production (Hobbs and Culver 2009, p. 392). Therefore, relying entirely on subsurface habitat during dry conditions on the surface may negatively impact the salamanders' feeding abilities and slow individual and population growth. Ultimately, dry surface conditions can exacerbate the risk of extirpation in combination with other threats occurring at the site. In addition, water quantity increases in the form of large spring discharge events and flooding may impact salamander populations by flushing individuals downstream into unsuitable habitat (Petranka and Sih 1986, p. 732; Barrett *et al.* 2010, p. 2,003) or forcing individuals into subsurface habitat refuge (Bendik 2011b, COA, pers. comm.; Bendik and Gluesenkamp 2012, pp. 3–4). Below, we evaluate the sources of water quantity alterations in Georgetown and Salado salamander habitat.

Urbanization

Increased urbanization in the watershed has been cited as one factor, particularly in combination with drought that causes alterations in spring flows (COA 2006, pp. 46–47; TPWD 2011, pp. 4–5; Coles *et al.* 2012. p. 10). This is partly due to increases in groundwater pumping and reductions in baseflow due to impervious cover. Urbanization removes the ability of a watershed to allow slow filtration of water through soils following rain events. Instead rainfall runs off impervious surfaces and into stream channels at higher rates, increasing downstream "flash" flows and decreasing groundwater recharge and subsequent baseflows from springs (Miller *et al.* 2007, p. 74; Coles *et al.* 2012, pp. 2, 19). Urbanization can also impact water quantity by increasing groundwater pumping and altering the natural flow regime of streams. These stressors are discussed in more detail below.

Urbanization can also result in increased groundwater pumping, which has a direct impact on spring flows, particularly under drought conditions. From 1980 to 2000, groundwater pumping in the Northern Segment of the Edwards Aquifer nearly doubled (TWDB 2003, pp. 32–33). Municipal wells within 500 ft (152 m) of San Gabriel Springs (Georgetown salamander habitat) now flow in the summer only intermittently due to pumping from nearby water wells (Booker 2011, Service, pers. comm.). Georgetown salamanders have not been found there since 1991 despite searches for them (Chippindale *et al.* 2000, p. 40; Pierce 2011b, Southwestern University, pers. comm.).

Furthermore, water levels in Williamson County wells were lower in 2005 than in 1995 (Boghici 2011, pp. 28–29). The declining water levels are attributed in part to groundwater pumping by industrial and public supply users (Berehe 2005, p. 18). Pumpage from the Edwards Aquifer has consistently exceeded the estimate available supply between 1985 and 1997 in Williamson County (Ridgeway and Petrini 1999, p. 35). Over a 50-year horizon (2001 to 2050), models predict a gradual long-term water-level decline will occur in the Pflugerville-Round Rock-Georgetown area of Williamson County (Berehe 2005, p. 2). There are 34

active public water supply systems in Williamson County (Berehe 2005, pp. 3, 63). Through water conservation programs and other efforts to meet new demands, TCEQ believes that water purveyors in Williamson County can generally maintain their present groundwater systems (Berehe 2005, pp. 3, 63). In addition, all wholesale and retail water suppliers are required to prepare and adopt drought contingency plans on TCEQ rules (Title 30, Texas Administrative Code, Chapter 288) (Berehe 2005, p. 64). However, there is no groundwater conservation district in place with authority to control large-scale groundwater pumping for private purposes (Berehe 2005, pp. 3, 63). Thus, groundwater levels may continue to decline due to private pumping.

The City of Georgetown predicts the average water demand to increase from 8.21 million gallons (30,000 kiloliters) per day in 2003, to 10.9 million gallons (37,000 kiloliters) per day by 2030 (City of Georgetown 2008, p. 3.36). Under peak flow demands (18 million gallons [68,000 kiloliters] per day in 2003), the City of Georgetown uses seven groundwater wells in the Edwards Aquifer (City of Georgetown 2008, p. 3.36). Total water use for Williamson County was 82,382 acre feet (ac ft) in 2010, and is projected to increase to 109,368 ac ft by 2020, and to 234,936 ac ft by 2060, representing a 185 percent increase over the 50-year period (TWDB 2011, p. 78). Similarly, Bell County predicts a 59 percent and 91 percent increase in total water use over the same 50-year period, respectively (TWDB 2011, pp. 5, 72).

While the demand for water is expected to increase with human population growth, future groundwater use in this area is predicted to drop as municipalities convert from groundwater to surface water supplies (TWDB 2003, p. 65). To meet the increasing water demand, the 2012 State Water Plan recommends more reliance on surface water, including existing and new reservoirs, rather than groundwater (TWDB 2012, p. 190). For example, one recommended project conveys water from Lake Travis to Williamson County (TWDB 2012, pp. 192–193). There is also a recommendation to augment the surface water of Lake Granger in Williamson County with groundwater from Burleson County and the Carrizo-Wilcox Aquifer (TWDB 2012, pp. 164, 192–193). However, it is unknown if this reduction in groundwater use will occur, and if it does, how that will affect spring flows for salamanders. Water supply from the Edwards Aquifer in Williamson and Bell Counties is projected to remain the same through 2060 (Berehe 2005, p. 38; Hassan 2011, p. 7). The Georgetown City Manager has recently indicated that the City of Georgetown will not use water from the Edwards Aquifer in plans for future and additional municipal water supplies (Brandenburg 2013, pers. comm). Instead, the City of Georgetown intends to use surface water or non-Edwards wells for future sources of water.

The COA found a negative correlation between urbanization and spring flows at Jollyville Plateau salamander sites (Turner 2003, p. 11). Field studies have also shown that a number of springs that support Jollyville Plateau salamanders have already gone dry periodically, and that spring waters resurface following rain events (O'Donnell *et al.* 2006, pp. 46–47). Through a site-by-site assessment from information available in our files and provided during the peer review and public comment period for the proposed rule, we found that at least 2 out of the 15 known Georgetown salamander surface sites and 3 out of the 7 known Salado salamander surface sites have gone dry for some period of time. Because we lack flow data for some of the spring sites, it is possible that even more sites have gone dry for a period of time as well.

Flow is a major determining factor of physical habitat in streams, which in turn, is a major determining factor of aquatic species composition within streams (Bunn and Arthington 2002, p. 492). Various land-use practices, such as urbanization, conversion of forested or prairie habitat to agricultural lands, excessive wetland draining, and overgrazing can reduce water retention within watersheds by routing rainfall quickly downstream, increasing the size and frequency of flood events and reducing baseflow levels during dry periods (Poff *et al.* 1997, pp. 772–773). Over time, these practices can degrade in-channel habitat for aquatic species (Poff *et al.* 1997, p. 773).

Baseflow is defined as that portion of stream flow that originates from shallow, subsurface groundwater sources, which provide flow to streams in periods of little rainfall (Poff *et al.* 1997, p. 771). The land-use practices mentioned above can cause stream flow to shift from predominately base flow, which is derived from natural filtration processes, to predominately stormwater runoff. For example, an examination of 24 stream sites in the urbanized Austin area revealed that increasing impervious cover in the watersheds resulted in decreased base flow, increased high-flow events of shorter duration, and more rapid rises and falls of the stream flow (Glick *et al.* 2009, p. 9). Increases in impervious cover within the Walnut Creek watershed (Jollyville Plateau salamander habitat) have likely caused a shift to more rapid rises and falls of that stream flow (Herrington 2010, p. 11).

With increasing stormwater runoff, the amount of baseflow available to sustain water supplies during drought cycles is diminished and the frequency and severity of flooding increases (Poff *et al.* 1997, p. 773). The increased quantity and velocity of runoff increases erosion and streambank destabilization, which in turn, leads to increased sediment loadings, channel widening, and detrimental changes in the morphology and aquatic ecology of the affected stream system (Hammer 1972, pp. 1,535–1,536, 1,540; Booth 1990, pp. 407–409, 412–414; Booth and Reinelt 1993, pp. 548–550; Schueler 1994, pp. 106–108; Pizzuto *et al.* 2000, p. 82; Center for Watershed Protection 2003, pp. 41–48; Coles *et al.* 2012, pp. 37–38). The City of Georgetown's water quality ordinance requires that regulated activities occurring on the Edwards Aquifer recharge zone shall not cause any increase in the developed flow rate of stormwater for the 2-year, 3-hour storm. Most municipalities currently enforce this or a similar standard for new developments, and it is unclear the effect this requirement will have on the quantity and velocity of runoff from developments in Georgetown or its ETJ.

Changes in flow regime can directly affect salamander populations. For example, the density of aquatic southern two-lined salamanders (*Eurycea cirrigera*) declined more drastically in streams with urbanized watersheds compared to streams with forested or pastured watersheds in Georgia (Barrett *et al.* 2010, pp. 2,002–2,003). A statistical analysis indicated that this decline in urban streams was due to an increase in flooding frequency from stormwater runoff. In artificial stream experiments, salamander larvae were flushed from sand-based sediments at significantly lower velocities, as compared to gravel, pebble, or cobble-based sediments (Barrett *et al.* 2010, p. 2,003). This has also been observed in the wild in small-mounted salamanders (*Ambystoma texanum*) whereby large numbers of individuals were swept downstream during high stream discharge events resulting in death by predation or physical trauma (Petranka and Sih 1986, p. 732). We expect increased flow velocities from impervious cover will cause the flushing of Georgetown and Salado salamanders from their habitats.

The threat of water quantity degradation from urbanization could cause irreversible declines in

population sizes or habitat quality for the Georgetown and Salado salamanders. Also, it could cause irreversible declines or the extirpation of a salamander population at a site with continuous exposure. Although we do not consider water quantity degradation from urbanization to be a significant threat to Georgetown and Salado salamanders at the present time, we expect this threat to become significant in the future as urbanization expands within these species' surface watersheds.

Drought

Drought conditions cause lowered groundwater tables and reduced spring flows. The Northern Segment of the Edwards Aquifer, which supplies water to Georgetown and Salado salamander habitat, is vulnerable to drought (Chippindale *et al.* 2000, p. 36). A drought lasting from 2008 to 2009 was considered one of the worst droughts in central Texas history and caused numerous salamander sites to go dry in the central Texas region (Bendik 2011a, p. 31). An even more pronounced drought throughout Texas began in 2010, with the period from October 2010 through September 2011 being the driest 12-month period in Texas since rainfall records began (Hunt *et al.* 2012, p. 195). Rainfall in early 2012 lessened the intensity of drought conditions, but 2012 monthly summer temperatures continued to be higher than average (NOAA 2013, p. 6). Moderate to extreme drought conditions continued into 2013 in the central Texas region (LCRA 2013, p. 1). Weather forecasts called for near to slightly less than normal rainfall across Texas through August 2013, but there was not enough rain to break the drought (LCRA 2013, p. 1). Year-end totals show that 2013 was the second lowest year of inflows into the Highland Lakes region of central Texas since the dams were built in the 1940s. There was some heavy rain in late-2013 in central Texas but much of it fell in Austin or downstream of Austin having little effect on recharging the Edwards Aquifer (LCRA 2014, p. 1).

The specific effects of low flow on the Georgetown and Salado salamanders can be inferred by examining studies on the closely related Barton Springs salamander. Drought decreases spring flow and dissolved oxygen levels and increases temperature in Barton Springs (Turner 2004, p. 2; Turner 2009, p. 14). Low dissolved oxygen levels decrease reproduction in Barton Springs salamanders (Turner 2004, p. 6; 2009, p. 14). Turner (2009, p. 14) also found that Barton Springs salamander counts decline with decreasing discharge. The number of Barton Springs salamander observed during surveys decreased during a prolonged drought from June 2008 through September 2009 (COA 2011, pp. 19, 24, 27). The drought in 2011 also resulted in dissolved oxygen concentrations so low that COA used an aeration system to maintain oxygenated water in Eliza and Sunken Gardens Springs (Dries 2011, COA, pers. comm.).

The Georgetown and Salado salamanders may be able to persist through temporary surface habitat degradation because of their ability to retreat to subsurface habitat. Drought conditions are common to the region, and the ability to retreat underground may be an evolutionary adaptation of *Eurycea* salamanders to such natural conditions (Bendik 2011a, pp. 31–32). However, it is important to note that although salamanders may survive a drought by retreating underground, this does not necessarily mean they are resilient to long-term drought conditions (particularly because sites may already be affected by other, significant stressors, such as water quality declines). Studies on other aquatic salamander species have reported decreased occupancy, loss of eggs, decreased egg-laying, and extirpation from sites during periods of drought (Camp *et al.* 2000, p. 166; Miller *et al.* 2007, pp. 82–83; Price *et al.* 2012b, pp. 317–319).

Dry surface conditions can affect salamanders by reducing their access to food. Surface habitats are important for prey availability as well as individual and population growth. Therefore, sites with suitable surface flow and adequate prey availability are likely able to support larger population densities (Bendik 2012, COA, pers. comm.). Research on related salamander species, such as the grotto salamander (*Typhlotriton spelaeus*) and the Oklahoma salamander (*Eurycea tynerensis*), demonstrates that resource-rich surface habitat is necessary for juvenile growth (Tumlison and Cline 1997, p. 105). Prey availability for carnivores, such as the Georgetown and Salado salamanders, is low underground due to the lack of sunlight and primary production (Hobbs and Culver 2009, p. 392). Complete loss of surface habitat may lead to the extirpation of predominately subterranean populations that depend on surface flows for biomass input (Bendik 2012, COA, pers. comm.). In addition, length measurements taken during a COA mark-recapture study at Lanier Spring demonstrated that individual Jollyville Plateau salamanders exhibited negative growth (shrinkage) during a 10-month period of retreating to the subsurface from 2008 to 2009 (Bendik 2011b, COA, pers. comm.; Bendik and Gluesenkamp 2012, pp. 3–4). The authors of this study hypothesized that the negative growth could be the result of soft tissue contraction and/or bone loss, but more research is needed to determine the physical mechanism with which the shrinkage occurs (Bendik and Gluesenkamp 2012, p. 5). Although this shrinkage in body length was followed by positive growth when normal spring flow returned, the long-term consequences of catch-up growth are unknown for these salamanders (Bendik and Gluesenkamp 2012, pp. 4–5).

Therefore, threats to surface habitat at a given site may not extirpate populations of these salamander species in the short term, but this type of habitat degradation may severely limit population growth and increase a population's overall risk of extirpation from other stressors occurring in the surface watershed.

The threat of water quantity degradation from drought alone (that is, without the consideration of additional threat sources that may be present at specific sites) could cause irreversible declines in population sizes or habitat quality for the Georgetown and Salado salamanders. Also, it could negatively impact salamander populations in combination with other threats and contribute to significant declines in the size of the populations or habitat quality. For example, changes in water quantity will have direct impacts on the quality of that water in terms of concentrations of contaminants and pollutants. Therefore, we consider water quantity degradation from drought to be a threat of high impact for the Georgetown and Salado salamanders now and in the future.

Climate Change

Our analyses under the Endangered Species Act include consideration of ongoing and projected changes in climate. The terms "climate" and "climate change" are defined by the Intergovernmental Panel on Climate Change (IPCC). The term "climate" refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007a, p. 78). The term "climate change" thus refers to a change in the mean or variability of one or more measures of climate (for example, temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability,

human activity, or both (IPCC 2007a, p. 78).

According to the IPCC (2007b, p. 1), "Warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level." Average Northern Hemisphere temperatures during the second half of the 20th century were very likely higher than during any other 50-year period in the last 500 years and likely the highest in at least the past 1300 years (IPCC 2007b, p. 1). It is very likely that from 1950 to 2012 cold days and nights have become less frequent, and hot days and hot nights have become more frequent on a global scale (IPCC 2013, p. 4). It is likely that the frequency and intensity of heavy precipitation events has increased over North America (IPCC 2013, p. 4).

The IPCC (2013, pp. 15–16) predicts that changes in the global climate system during the 21st century are very likely to be larger than those observed during the 20th century. For the next two decades (2016 to 2035), a warming of 0.3 °C (0.5 °F) to 0.7 °C (1.3 °F) per decade is projected (IPCC 2013, p. 15). Afterwards, temperature projections increasingly depend on specific emission scenarios (IPCC 2007b, p. 6). Various emissions scenarios suggest that by the end of the 21st century, average global temperatures are expected to increase 0.3 °C to 4.8 °C (0.5 °F to 8.6 °F), relative to 1986 to 2005 (IPCC 2013, p. 15). By the end of 2100, it is virtually certain that there will be more frequent hot and fewer cold temperature extremes over most land areas on daily and seasonal timescales, and it is very likely that heat waves and extreme precipitation events will occur with a higher frequency and intensity (IPCC 2013, pp. 15–16).

Global climate projections are informative, and, in some cases, the only or the best scientific information available for us to use. However, projected changes in climate and related impacts can vary substantially across and within different regions of the world (for example, IPCC 2007b, p. 9). Therefore, we use "downscaled" projections when they are available and have been developed through appropriate scientific procedures, because such projections provide higher resolution information that is more relevant to spatial scales used for analyses of a given species (see Glick *et al.* 2011, pp. 58–61, for a discussion of downscaling). With regard to our analysis for the Georgetown and Salado species, downscaled projections are available.

Localized projections suggest the southwest may experience the greatest temperature increase of any area in the lower 48 States (IPCC 2007b, p. 8). Temperature in Texas is expected to increase by up to 4.8 °C (8.6 °F) by the end of 2100 (Jiang and Yang 2012, p. 235). The IPCC also predicts that hot extremes and heat waves will increase in frequency and that many semi-arid areas like the western United States will suffer a decrease in water resources due to climate change (IPCC 2007b, p. 8). Model projections of future climate in southwestern North America show a transition to a more arid climate that began in the late 20th and early 21st centuries (Seager *et al.* 2007, p. 1183). Milly *et al.* (2005, p. 349) project a 10 to 30 percent decrease in stream flow in mid-latitude western North America by the year 2050 based on an ensemble of 12 climate models. Based on downscaling global models of climate change, Texas is expected to receive up to 20 percent less precipitation in winters and up to 10 percent more precipitation in summers (Jiang and Yang 2012, p. 238). However, most regions in Texas are predicted to become drier as temperatures increase (Jiang and Yang 2012, pp. 240–242).

An increased risk of drought in Texas could occur if evaporation exceeds precipitation levels in a particular region due to increased greenhouse gases in the atmosphere (CH2M HILL 2007, p. 18). A reduction of recharge to aquifers and a greater likelihood for more extreme droughts, such as the droughts of 2008 to 2009 and 2011, were identified as potential climate change-related impacts to water resources (CH2M HILL 2007, p. 23). Extreme droughts in Texas are now much more probable than they were 40 to 50 years ago (Rupp *et al.* 2012, pp. 1053–1054).

Various changes in climate may have direct or indirect effects on species. These effects may be positive, neutral, or negative, and they may change over time, depending on the species and other relevant considerations, such as interactions of climate with other variables (for example, habitat fragmentation) (IPCC 2007a, pp. 8–14, 18–19). Identifying likely effects often involves aspects of climate change vulnerability analysis. Vulnerability refers to the degree to which a species (or system) is susceptible to, and unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the type, magnitude, and rate of climate change and variation to which a species is exposed, its sensitivity, and its adaptive capacity (IPCC 2007a, p. 89; see also Glick *et al.* 2011, pp. 19–22). There is no single method for conducting such analyses that applies to all situations (Glick *et al.* 2011, p. 3). We use our expert judgment and appropriate analytical approaches to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

Climate change could compound the threat of decreased water quantity at salamander spring sites. Recharge, pumping, natural discharge, and saline intrusion of Texas groundwater systems could all be affected by climate change (Mace and Wade 2008, p. 657). Although climate change predictions on the Northern Segment of the Edwards Aquifer are not available, the Southern Edwards Aquifer is predicted to experience additional stress from climate change that could lead to decreased recharge (Loáiciga *et al.* 2000, pp. 192–193). In addition, CH2M HILL (2007, pp. 22–23) identified possible effects of climate change on water resources within the Lower Colorado River Watershed (which contributes recharge to the Barton Springs Segment of the Edwards Aquifer, just south of the range of the Georgetown and Salado salamanders). We therefore conclude that the best available evidence indicates that the Northern Segment of the Edwards Aquifer will respond similarly to climate change as the rest of the Edwards Aquifer.

Rainfall and ambient temperatures are factors that may affect Georgetown and Salado salamander populations. Different ambient temperatures in the season that rainfall occurs can influence spring water temperature if aquifers have fast transmission of rainfall to springs (Martin and Dean 1999, p. 238). Gillespie (2011, p. 24) found that reproductive success and juvenile survivorship in the Barton Springs salamander may be significantly influenced by fluctuations in mean monthly water temperature. This study also found that groundwater temperature is influenced by the season in which rainfall events occur over the recharge zone of the aquifer. When recharging rainfall events occur in winter when ambient temperature is low, mean monthly water temperature within the aquatic habitat of this species can drop as low as 65.5 °F (18.6 °C) and remain below the annual average temperature of 70.1 °F (21.2 °C) for several months (Gillespie 2011, p. 24).

In summary, the threat of water quantity degradation from climate change could negatively impact the Georgetown and Salado salamanders in combination with other threats and

contribute to significant declines in population sizes or habitat quality. We consider this to be a threat of moderate impact for the Georgetown and Salado salamanders now and in the future.

Physical Modification of Surface Habitat

The Georgetown and Salado salamanders are sensitive to direct physical modification of surface habitat from sedimentation, impoundments, flooding, feral hogs, livestock, and human activities. Direct mortality to salamanders can also occur as a result of these stressors, such as being crushed by feral hogs, livestock, or humans.

Sedimentation

Elevated mobilization of sediment (mixture of silt, sand, clay, and organic debris) is a stressor that occurs as a result of increased velocity of water running off impervious surfaces (Schram 1995, p. 88; Arnold and Gibbons 1996, pp. 244–245). Increased rates of stormwater runoff also cause increased erosion through scouring in headwater areas and sediment deposition in downstream channels (Booth 1991, pp. 93, 102–105; Schram 1995, p. 88). Waterways are adversely affected in urban areas, where impervious cover levels are high, by sediment loads that are washed into streams or aquifers during storm events. Sediments are either deposited into layers or become suspended in the water column (Ford and Williams 1989, p. 537; Mahler and Lynch 1999, p. 177). Sediment derived from soil erosion has been cited as the greatest single source of pollution of surface waters by volume (Menzer and Nelson 1980, p. 632).

Excessive sediment from stormwater runoff is a threat to the physical habitat of salamanders because it can cover substrates (Geismar 2005, p. 2). Sediments suspended in water can clog gill structures in aquatic animals, which can impair breathing and reduce their ability to avoid predators or locate food sources due to decreased visibility (Schueler 1987, p. 1.5). Excessive deposition of sediment in streams can physically reduce the amount of available habitat and protective cover for aquatic organisms, by filling the interstitial spaces of gravel and rocks where they could otherwise hide. As an example, a California study found that densities of two aquatic salamander species were significantly lower in streams that experienced a large infusion of sediment from road construction after a storm event (Welsh and Ollivier 1998, pp. 1,118–1,132). The vulnerability of the aquatic salamander species in this California study was attributed to their reliance on interstitial spaces in the streambed habitats (Welsh and Ollivier 1998, p. 1,128).

Excessive sedimentation has contributed to declines in Jollyville Plateau salamander populations in the past. Monitoring by the COA found that, as sediment deposition increased at several sites, salamander abundances significantly decreased (COA 2001, pp. 101, 126). Additionally, the COA found that sediment deposition rates have increased significantly along one of the long-term monitoring sites (Bull Creek Tributary 5) as a result of construction activities upstream (O'Donnell *et al.* 2006, p. 34). This site has had significant declines in salamander abundance, based on 10 years of monitoring, and the COA attributes this decline to the increases in sedimentation (O'Donnell *et al.* 2006, pp. 34–35). The location of this monitoring site is within a large preserved tract. However, the headwaters of this drainage are outside the preserve and the development in this area increased sedimentation downstream and impacted salamander habitat within the preserved tract.

Effects of sedimentation on the Georgetown and Salado salamanders are expected to be similar to the effects on the Barton Spring salamanders based on similarities in their ecology and life-history needs. Barton Spring salamander population numbers are adversely affected by high turbidity and sedimentation (COA 1997, p. 13). Sediments discharge through Barton Springs, even during baseflow conditions (not related to a storm event) (Geismar 2005, p. 12). Storms can increase sedimentation rates substantially (Geismar 2005, p. 12). Areas in the immediate vicinity of the spring outflows lack sediment, but the remaining bedrock is sometimes covered with a layer of sediment several inches thick (Geismar 2005, p. 5). Further, urban development within the watersheds of Georgetown and Salado salamander sites will increase sedimentation and degrade water quality in salamander habitat both during and after construction activities. However, the City of Georgetown's water quality ordinance requires that permanent structural water quality controls for regulated activities over the Edwards Aquifer recharge zone must remove 85 percent of total suspended solids for the entire project. This increases the amount of total suspended solids that must be removed from projects within the City of Georgetown and its ETJ by 5 percent over the existing requirements (i.e. removal of 80 percent total suspended solids) found in the Edwards Aquifer Rules. Additional threats from sediments as a source of contaminants were discussed in the "Contaminants and Pollutants" under the "Water Quality Degradation" section above.

The threat of physical modification of surface habitat from sedimentation by itself could cause irreversible declines in population sizes or habitat quality for the Georgetown and Salado salamanders. It could also negatively impact the species in combination with other threats to contribute to significant declines. Although we do not consider this to be an ongoing threat to the Georgetown and Salado salamanders at the present time, we expect physical modification of surface habitat from sedimentation to become a significant threat in the future as urbanization expands within these species' surface watersheds.

Impoundments

Impoundments can alter the Georgetown and Salado salamanders' physical habitat in a variety of ways that are detrimental. Impoundments can alter the natural flow regime of streams, increase siltation, support larger, predatory fish (Bendik 2011b, COA, pers. comm.), leading to a variety of impacts to the Georgetown and Salado salamanders and their surface habitats. For example, a low water crossing on a tributary of Bull Creek occupied by the Jollyville Plateau salamander resulted in sediment build-up above the impoundment and a scour hole below the impoundment that supported predaceous fish (Bendik 2011b, COA, pers. comm.). As a result, Jollyville Plateau salamanders were not found in this degraded habitat after the impoundment was constructed. When the crossing was removed in October 2008, the sediment build-up was removed, the scour hole was filled, and Jollyville Plateau salamanders were later observed (Bendik 2011b, COA, pers. comm.).

Impoundments have also impacted some of the Georgetown and Salado salamanders' surface habitats. Two sites for the Georgetown salamander (Cobb Spring and Shadow Canyon) have spring openings that are surrounded at least in part by brick and mortar impoundments (White 2011, SWCA, pers. comm.; Booker 2011, Service, pers. comm.), presumably to collect the spring water for cattle. San Gabriel Springs is also impounded with a substrate of aquarium gravel (Booker 2011, Service, pers. comm.). However, the future threat of impoundments at occupied Georgetown salamander sites has been reduced through the City of

Georgetown's water quality ordinance. The ordinance established a 984-ft (300-m) buffer zone within which the construction of impoundments would not be permitted. In addition, all springs within the City of Georgetown or its ETJ will be protected by a 164-ft (50-m) buffer zone. Two sites for the Salado salamander (Cistern Springs and Lazy Days Fish Farm) have been modified by impoundments.

The threat of physical modification of surface habitat from impoundments by itself may not be likely to cause significant population declines, but it could negatively impact the Salado salamander in combination with other threats and contribute to significant declines in the population size or habitat quality. We consider impoundments to be an ongoing threat of moderate impact to the Salado salamander and their surface habitats that will continue in the future. Due to the City of Georgetown's water quality ordinance, we do not expect additional Georgetown salamander sites to be impounded in the future.

Flooding

Flooding as a result of rainfall events can considerably alter the substrate and hydrology of salamander habitat, negatively impacting salamander populations and behavior (Rudolph 1978, p. 155). Extreme flood events have occurred in the Georgetown and Salado salamanders' surface habitats (Pierce 2011a, p. 10; TPWD 2011, p. 6; Turner 2009, p. 11; O'Donnell *et al.* 2005, p. 15). A flood in September 2010 modified surface habitat for the Georgetown salamander in at least two sites (Swinbank Spring and Twin Springs) (Pierce 2011a, p. 10). The stormwater runoff caused erosion, scouring of the streambed channel, the loss of large rocks, and the creation of several deep pools. Georgetown salamander densities dropped dramatically in the days following the flood (Pierce 2011a, p. 11). At Twin Springs, Georgetown salamander densities increased some during the winter following the flood and again within 2 weeks after habitat restoration took place (returning large rocks to the spring run) in the spring of 2011 (Pierce 2011a, p. 11). Likewise, three storm events in 2009 and 2010 deposited sediment and other material on top of spring openings at Salado Spring (TPWD 2011, p. 6). The increased flow rate from flooding causes unusually high dissolved oxygen concentrations, which may exert direct or indirect, sub-lethal effects (reduced reproduction or foraging success) on salamanders (Turner 2009, p. 11).

Salamanders also may be flushed from the surface habitat by strong flows during flooding, which can result in death by predation or by physical trauma, as has been observed in other aquatic salamander species (Baumgartner *et al.* 1999, p. 36; Sih *et al.* 1992, p. 1,429). Bowles *et al.* (2006, p. 117) observed no Jollyville Plateau salamanders in riffle habitat at one site during high water velocities and hypothesized that individual salamanders were either flushed downstream or retreated to the subsurface. Rudolph (1978, p. 158) observed that severe floods could reduce populations of five different species of aquatic salamanders by 50 to 100 percent.

Flooding can alter the surface salamander habitat by deepening stream channels, which may increase habitat for predaceous fish. Much of the Georgetown and Salado salamanders' surface habitat is characterized by shallow water depth (COA 2001, p. 128; Pierce 2011a, p. 3). However, deep pools are sometimes formed within stream channels from the scouring of floods. As water depth increases, the deeper pools support more predaceous fish populations. However, several central Texas *Eurycea* species are able to survive in deep water environments in the presence of many predators. Examples include the San Marcos salamander in Spring Lake, *Eurycea* species in Landa Lake, and the Barton Springs salamander in Barton Springs Pool. All of these sites have vegetative cover, which may allow salamanders to avoid predation. Anti-predator behaviors may allow these species to co-exist with predaceous fish, but the effectiveness of these behaviors may be species-specific (reviewed in Pierce and Wall 2011, pp. 18–19), and many of the shallow surface habitats of the Georgetown and Salado salamanders do not have much vegetative cover.

The threat of physical modification of surface habitat from flooding by itself may not be likely to cause significant population declines, but it could negatively impact the species in combination with other threats and contribute to significant declines in the population size or habitat quality. We consider this to be a threat of moderate impact to the Georgetown and Salado salamanders that will likely increase in the future as urbanization and impervious cover increases within the surface watersheds of these species, causing more frequent and more intense flash flooding (see discussion in the "Urbanization" section under "Water Quantity Degradation" above).

Feral Hogs

Feral hogs are another source of physical habitat disturbance to Georgetown and Salado salamander surface sites. There are between 1.8 and 3.4 million feral hogs in Texas, and the feral hog population in Texas is projected to increase 18 to 21 percent every year (Texas A&M University (TAMU) 2011, p. 2). Feral hogs prefer to live around moist areas, including riparian areas near streams, where they can dig into the soft ground for food and wallow in mud to keep cool (Mapson 2004, pp. 11, 14–15). Feral hogs disrupt these ecosystems by decreasing plant species diversity, increasing invasive species abundance, increasing soil nitrogen, and exposing bare ground (TAMU 2012, p. 4). Feral hogs negatively impact surface salamander habitat by digging and wallowing in spring heads, which increases sedimentation downstream (O'Donnell *et al.* 2006, pp. 34, 46). This activity can also result in direct mortality of amphibians (Bull 2009, p. 243).

Feral hogs have become abundant in some areas where the Georgetown and Salado salamanders occur. Evidence of hogs has been observed near one Georgetown salamander site (Cobbs Spring) (Booker 2011, Service, pers. comm.). The landowner of Cobbs Spring is actively trapping feral hogs (Booker 2011, Service, pers. comm.), but the effectiveness of this management has not been assessed. Feral hogs are also present in the area of several Salado salamander sites. At least one private landowner has fenced off three spring sites known to be occupied by the Salado salamander (Cistern, Hog Hollow, and Solana Springs) (Glen 2012, Sedgwick LLP, pers. comm.), which likely provides protection from feral hogs at these sites.

The threat of physical modification of surface habitat from feral hogs by itself may not be likely to cause significant population declines, but it could negatively impact the Georgetown and Salado salamanders in combination with other threats and contribute to significant declines in the population size or habitat quality. We consider physical modification of surface habitat from feral hogs to be an ongoing threat of moderate impact to the Georgetown and Salado salamanders that will likely continue in the future as the feral hog population increases.

Livestock

Similar to feral hogs, livestock can negatively impact surface salamander habitat by disturbing the substrate and increasing sedimentation in the spring

run where salamanders are often found. Poorly managed livestock grazing results in changes in vegetation (from grass-dominated to brush-dominated), which leads to increased erosion of the soil profile along stream banks (COA 1995, p. 3–59) and sediment in salamander habitat. Evidence of trampling and grazing in riparian areas from cattle was found at one Georgetown salamander site (Shadow Canyon) (White 2011, SWCA, pers. comm.), and cattle are present on at least one other Georgetown salamander site (Cobbs Spring). Cattle are also present on lands where four Salado salamander sites occur (Gluesenkamp 2011c, TPWD, pers. comm.; Texas Section Society for Range Management 2011, p. 2). However, a private landowner has fenced three spring sites where Salado salamanders are known to occur (Cistern, Hog Hollow, and Cistern Springs), which likely provide the salamander and its habitat protection from the threat of livestock at these locations (Glen 2012, Sedgwick LLP, pers. comm.).

We assessed the risk of exposure of the Georgetown and Salado salamanders to the threat of physical habitat modification from livestock by examining 2012 Google Earth aerial imagery. Because livestock are so common across the landscape, we assumed that where present, these animals have access to spring sites unless they are fenced out. For our assessment, we assumed that unless we could identify the presence of fencing or unless the site is located in a densely urbanized area, livestock have access and present a threat of physical habitat modification to as many as 9 of the 15 Georgetown salamander surface sites and 1 of the 7 Salado salamander sites.

There is some management of livestock occurring that reduces the magnitude of negative impacts. An 8,126-ac (3,288-ha) property in Bell County with at least three Salado salamander sites (Cistern, Hog Hollow, and Solana Springs) has limited its cattle rotation to a maximum of 450 head (Texas Section Society for Range Management 2011, p. 2), which is considered a moderate stocking rate. In addition, the landowner of Cobbs Spring (a Georgetown salamander site) is in the process of phasing out cattle on the property (Boyd 2011, Williamson County Conservation Foundation, pers. comm.).

The threat of physical modification of surface habitat from livestock by itself may not be likely to cause significant population declines, but it could negatively impact the Georgetown and Salado salamanders in combination with other threats and contribute to significant declines in the population size or habitat quality, particularly with repeated or continuous exposure. We consider livestock to be an ongoing threat of moderate impact to the Georgetown salamander because 9 of its 15 surface sites are likely affected. On the other hand, because only 1 of the 7 Salado salamander surface sites is exposed to livestock, we do not consider this to be a threat to the Salado salamander now or in the future.

Other Human Activities

Some of the Georgetown and Salado salamander sites have been directly modified by human-related activities. In the summer of 2008, a spring opening at a Salado salamander site was covered with gravel (Service 2010, p. 6). Although we received anecdotal information that at least one salamander was observed at the site after the gravel was dumped at Big Boiling Springs, the Service has no detailed information on how the Salado salamander was affected by this action. Heavy machinery is currently used in the riparian area of Big Boiling and Lil' Bubbly Springs to clear out vegetation and maintain a grassy lawn to the water's edge (Gluesenkamp 2011a, c, TPWD, pers. comm.), which has led to erosion problems during flood events (TPWD 2011, p. 6). The modification of springs for recreation or other purposes degrades natural riparian areas, which are important for controlling erosion and attenuating floodwaters in aquatic habitats.

Other recent human activities at Big Boiling Spring include pumping water from the spring opening, contouring the substrate of the spring environment, and covering spring openings with gravel (TPWD 2011, p. 4). In the fall of 2011, the outflow channels and edges of Big Boiling and Lil' Bubbly Springs were reconstructed with large limestone blocks and mortar. In addition, the U.S. Army Corps of Engineers issued a cease and desist order to the Salado Chamber of Commerce in October 2011, for unauthorized discharge of dredged or fill material that occurred in this area (Brooks 2011, U.S. Army Corps of Engineers, pers. comm.). This order was issued in relation to the need for a section 404 permit under the Clean Water Act (33 U.S.C. 1251 *et seq.*). Also in October 2011, a TPWD game warden issued a citation to the Salado Chamber of Commerce due to the need for a sand and gravel permit from the TPWD for these activities being conducted within TPWD's jurisdiction (Heger 2012a, TPWD, pers. comm.). The citation was issued because the Salado Chamber of Commerce had been directed by the game warden to stop work within TPWD's jurisdiction until they obtained a permit, which the Salado Chamber of Commerce did temporarily, but work started again despite the game warden's directive (Heger 2012a, TPWD, pers. comm.). A sand and gravel permit was obtained on March 21, 2012. The spring run modifications were already completed by this date, but further modifications in the springs were prohibited by the permit. Additional work on the bank of Salado Creek upstream of the springs was permitted and completed (Heger 2012b, TPWD, pers. comm.).

At the complex of springs occupied by the Georgetown salamander within San Gabriel River Park, a thick bed of nonnative aquarium gravel has been placed in the spring runs (TPWD 2011, p. 9). This gravel is too small to serve as cover habitat and does not form the interstitial spaces required for Georgetown salamanders. Georgetown salamanders have not been observed here since 1991 (Chippindale *et al.* 2000, p. 40; Pierce 2011b, Southwestern University, pers. comm.). Aquarium gravel dumping has not been documented at any other Georgetown salamander sites. The City of Georgetown's water quality ordinance establishes a 262-ft (80-m) no-disturbance zone around occupied sites within which only limited activities such as maintenance of existing improvements, scientific monitoring, and fences will be permitted. In addition, the ordinance establishes a no-disturbance zone that extends 164 ft (50 m) around all springs within the Edwards Aquifer recharge zone in Georgetown and its ETJ. These measures will reduce the threat of habitat modification as the result of human activities. Additionally, for the Georgetown salamander, the Adaptive Management Working Group is charged specifically with reviewing Georgetown salamander monitoring data and new research over time and recommending improvements to the ordinance that may be necessary to ensure that it achieves its stated purposes. This Adaptive Management Working Group, which includes representatives of the Service and TPWD, will also review and make recommendations on the approval of any variances to the ordinance.

Frequent human visitation of sites occupied by the Georgetown and Salado salamanders may negatively affect the species and their habitats. The COA has documented disturbed vegetation, vandalism, and the destruction of travertine deposits (fragile rock formations formed by deposit of calcium carbonate on stream bottoms) by

pedestrian traffic at one of their Jollyville Plateau salamander monitoring sites in the Bull Creek watershed (COA 2001, p. 21), and it may have resulted in direct destruction of small amounts of the salamander's habitat. Eliza Spring and Sunken Garden Spring, locations for both the Barton Springs and Austin blind salamanders, also experience vandalism despite the presence of fencing and signage (Dries 2011, COA, pers. comm.). Frequent human visitation can reduce the amount of cover available for salamander breeding, feeding, and sheltering. We are aware of impacts from recreational use at one Georgetown salamander site (San Gabriel Springs) and two Salado salamander sites (Big Boiling and Lil Bubbly Springs) (TPWD 2011, pp. 6, 9). However, as the human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050, we expect more Georgetown and Salado salamander sites will be negatively affected from frequent human visitation.

The threat of physical modification of surface habitat from human visitation, recreation, and alteration is not significantly affecting the Georgetown and Salado salamanders now. However, we consider this will be a threat of moderate impact in the future as the human population increases in Williamson and Bell Counties.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

When considering the listing determination of species, it is important to consider conservation efforts that are nonregulatory, such as habitat conservation plans, safe harbor agreements, habitat management plans, memorandums of understanding, or other voluntary actions that may be helping to ameliorate stressors to the species' habitat, but are not legally required. There have been a number of efforts aimed at minimizing the habitat destruction, modification, or curtailment of the salamanders' ranges. For example, the WCCF, a nonprofit organization established by Williamson County in 2002, is currently working to find ways to conserve endangered species and other unlisted species of concern in Williamson County, Texas. This organization held a Georgetown salamander workshop in November 2003, in an effort to bring together landowners, ranchers, farmers, developers, local and state officials, Federal agencies, and biologists to discuss information currently known about the Georgetown salamander and to educate the public on the threats faced by this species.

In a separate undertaking, and with the help of a grant funded through section 6 of the Act, the WCCF developed the Williamson County Regional Habitat Conservation Plan (HCP) to obtain a section 10(a)(1)(B) permit for incidental take of federally listed endangered species in Williamson County, Texas. This HCP became final in October 2008. Although the Georgetown salamander was not a covered species in the incidental take permit, the WCCF included some considerations for the Georgetown salamander in the HCP. In particular, they included work to conduct a status review of the Georgetown salamander, which is currently underway. The WCCF began allocating funding for Georgetown salamander research and monitoring beginning in 2010. The WCCF plans to fund at least $50,000 per year for 5 years for monitoring, surveying, and gathering baseline data on water quality and quantity at salamander spring sites. They intend to use information gathered during this status review to develop a conservation strategy for this species. A portion of that funding supported mark-recapture studies of the Georgetown salamander at two of its known localities (Twin Springs and Swinbank Spring) in 2010 and 2011 (Pierce 2011a, p. 20) by Dr. Benjamin Pierce of Southwestern University, who had already been studying the Georgetown salamander for several years prior to this. Additional funds have been directed at water quality assessments of at least two known localities and efforts to find previously undiscovered Georgetown salamander populations (Boyd 2011, WCCF, pers. comm.). We have received water quality data on several Georgetown salamander locations (SWCA 2012, pp. 11–20) and the location of one previously undiscovered Georgetown salamander population (Hogg Hollow Spring 2; Covey 2013, pers. comm.) as a result of this funding.

The Service worked with the WCCF to develop the Williamson County Regional HCP for several listed karst invertebrates, and it is also expected to benefit the Georgetown salamander by lessening the potential for water quality degradation where karst invertebrate preserves are established in the surface watersheds of known Georgetown salamander sites. As part of the Williamson County Regional HCP, the WCCF has begun establishing preserves that are beneficial to karst invertebrate species. In addition, the WCCF has purchased an easement on the 64.4-ac (26.1-ha) Lyda tract (Cobbs Cavern) in Williamson County through the Service's section 6 grant program. This section 6 grant was awarded for the protection of listed karst invertebrate species; however, protecting this land also benefits the Georgetown salamander. Although the spring where salamanders are located was not included in the easement, a portion of the contributing surface watershed was included. For this reason, some water quality benefits to the salamander are expected. In January 2008, the WCCF also purchased the 145-ac (59-ha) Twin Springs preserve area. This area contains one of the sites known to be occupied by the Georgetown salamander. This species is limited to 17 known localities, 2 of which (Cobbs Spring and Twin Springs) have some amount of protection by the WCCF. The population size of Georgetown salamanders at Cobbs Spring is unknown, while the population size at Twin Springs is estimated to be 100 to 200 individuals (Pierce 2011a, p. 18). Furthermore, the surface watersheds of both springs are currently only partially protected by the WCCF, and there is uncertainty about where subsurface flows are coming from at both sites and whether or not these subsurface areas are protected as well.

In Bell County, the landowners of a 8,126-ac (3,288-ha) property (Solana Ranch) with at least three Salado salamander sites along with the landowner of another property (Robertson Ranch) that contains one Salado salamander site have shown a commitment to natural resource conservation and land stewardship practices that benefit the Salado salamander. Neither ranch owner has immediate plans to develop their land, which means that the Salado salamander is currently not faced with threats from urbanization (see discussion above under Factor A) at these four sites. Furthermore, in early 2013, the Texas Nature Conservancy acquired funding to obtain a conservation easement over 256 acres (104 hectares) of the Solana Ranch that encompasses all three spring outlets (Cistern, Hog Hollow, and Solana Springs) occupied by Salado salamanders. This easement would permanently protect the area around these springs from urban development. In addition, the Solana Ranch has fenced off feral hogs and livestock around its three springs.

The conservation efforts implemented thus far for the Salado salamander represent over half of the known spring sites occupied by this species. This includes about 21 percent of the surface

watershed for the three Salado salamander sites is contained within the Solana Ranch property boundary, and only 3 percent of the surface watershed for the one Salado salamander site (Robertson Spring) is contained within the Robertson Ranch property boundary. The efforts by these landowners represent an important step toward the conservation of the Salado salamander.

The remaining area of the surface watersheds and the recharge zone for these springs is not contained within the properties and is not protected from future development. Considering the projected growth rates expected in Bell County (from 310,235 in 2010 to 707,840 in 2050, a 128 percent increase over the 40-year period; Texas State Data Center 2012, p. 353), these four Salado salamander spring sites are still at threat from the detrimental effects of urbanization that could occur outside of these properties. Although the pattern of existing infrastructure suggests that much of the urbanization will occur along IH–35 and downstream of the three Solana Ranch springs, the threat of development and urbanization continues into the future because more than 75 percent of the surface watershed for these sites is located outside the boundaries of these properties. There are no long-term, binding conservation plans currently in place for either of these properties as the conservation easement for Solana Ranch has not been finalized. In addition, the regulations in place in Bell County are not adequate to protect water quality within occupied watersheds or within the Edwards Aquifer recharge zone.

Although these conservation efforts likely contribute water quality benefits to surface flow, surface habitats can be influenced by land use throughout the recharge zone of the aquifer that supplies its spring flow. Furthermore, the surface areas influencing subsurface water quality (that is draining the surface and flowing to the subsurface habitat) is not clearly delineated for many of the sites (springs or caves) for the Georgetown and Salado salamanders. Because we are not able to precisely assess additional pathways for negative impacts to the Georgetown and Salado salamanders to occur, many of their sites may be affected by threats that cannot be mitigated through the conservation efforts that are currently ongoing.

Conclusion of Factor A

Degradation of habitat, in the form of reduced water quality and quantity and disturbance of spring sites (physical modification of surface habitat), is the primary threat to the Georgetown and Salado salamanders. This threat may affect only the surface habitat, only the subsurface habitat, or both habitat types. In consideration of the stressors currently impacting the salamander species and their habitats along with their risk of exposure to potential sources of this threat, we find the threat of habitat destruction and modification within the ranges of the Georgetown and Salado salamanders to be of low severity now, but will become significant in the future as the human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

There is little available information regarding overutilization of the Georgetown and Salado salamanders for commercial, recreational, scientific, or educational purposes, although we are aware that some individuals of these species have been collected from their natural habitat for a variety of purposes. Collecting individuals from populations that are already small enough to experience reduced reproduction and survival due to inbreeding depression or become extirpated due to environmental or demographic stochasticity and other catastrophic events (see the discussion on small population sizes under *Factor E—Other Natural or Manmade Factors Affecting Its Continued Existence* below) can pose a risk to the continued existence of these populations. Additionally, there are no regulations currently in place to prevent or restrict the collections of salamanders from their habitat in the wild for scientific or other purposes, and we know of no plans within the scientific community to limit the amount or frequency of collections at known salamander locations. We recognize the importance of collecting for scientific purposes; such as for research, captive assurance programs, taxonomic analyses, and museum collections. However, removing individuals from small, localized populations in the wild, without any proposed plans or regulations to restrict these activities, could increase the population's vulnerability and decrease its resiliency and ability to withstand stochastic events.

Currently, we do not consider overutilization from collecting salamanders in the wild to be a threat by itself, but it may contribute to significant population declines, and could negatively impact the Georgetown and Salado salamanders in combination with other threats.

C. Disease or Predation

Chytridiomycosis (chytrid fungus) is a fungal disease that is responsible for killing amphibians worldwide (Daszak *et al.* 2000, p. 445). The chytrid fungus has been documented on the feet of Jollyville Plateau salamanders from 15 different sites in the wild (O'Donnell *et al.* 2006, pp. 22–23; Gaertner *et al.* 2009, pp. 22–23) and on Austin blind salamanders in captivity (Chamberlain 2011, COA, pers. comm.). However, the Austin blind and Jollyville Plateau salamanders did not display any noticeable health effects (O'Donnell *et al.* 2006, p. 23). We do not consider chytridiomycosis to be a threat to the Georgetown and Salado salamanders at this time. The best available information does not indicate that impacts from this disease on the Georgetown or Salado salamander may increase or decrease in the future, and therefore, we conclude that this disease is not a threat to either species.

Regarding predation, COA biologists found Jollyville Plateau salamander abundances were negatively correlated with the abundance of predatory centrarchid fish (carnivorous freshwater fish belonging to the sunfish family), such as black bass (*Micropterus* spp.) and sunfish (*Lepomis* spp.) (COA 2001, p. 102). Predation of a Jollyville Plateau salamander by a centrarchid fish was observed during a May 2006 field survey (O'Donnell *et al.* 2006, p. 38). The Georgetown and Salado salamanders have been observed retreating into gravel substrate after cover was moved, suggesting these salamanders display anti-predation behavior (Bowles *et al.* 2006, p. 117). Studies have found that San Marcos salamanders (*Eurycea nana*) and Barton Springs salamanders both have the ability to recognize and show anti-predator response to the chemical cues of introduced and native centrarchid fish predators (Epp and Gabor 2008, p. 612; DeSantis *et al.* 2013, p. 294). However, the best available information does not indicate that predation of the Georgetown and Salado salamanders is significantly limiting these species.

In summary, while disease and predation may be affecting individuals of these salamander species, these are not significant factors affecting the species. Neither disease nor predation is occurring at a level that we consider to be a threat to the Georgetown and Salado salamanders now or in the future.

D. The Inadequacy of Existing Regulatory Mechanisms

The primary threats to the Georgetown and Salado salamanders are habitat degradation related to a reduction of water quality and quantity and disturbance at spring sites that will increase in the future as human populations continue to grow and urbanization increases. The human population in Georgetown is expected to grow by 375 percent between 2000 and 2033 (City of Georgetown 2008, p. 3.5). The Texas State Data Center also estimates a 377 percent increase in human population in Williamson County from 2010 to 2050. Population projections from the Texas State Data Center (2012, p. 353) estimate that Bell County, where the Salado salamander resides, will increase in population by 128 percent over the same 40-year period. Therefore, regulatory mechanisms that protect water quality and quantity of the Edwards Aquifer from development related impacts are crucial to the future survival of these species. Federal, State, and local laws and regulations have been insufficient to prevent past and ongoing impacts to the habitat of Georgetown and Salado salamanders from water quality degradation, reduction in water quantity, and surface disturbance of spring sites. They are unlikely to prevent further impacts to the Salado salamander in the future. The new ordinance approved by the Georgetown City Council in December 2013 is intended to reduce the threats to the Georgetown salamander in the future and is discussed in detail below.

State and Federal Regulations

Laws and regulations pertaining to endangered or threatened animal species in the state of Texas are contained in Chapters 67 and 68 of the Texas Parks and Wildlife Department Code and Sections 65.171–65.176 of Title 31 of the Texas Administrative Code (T.A.C.). TPWD regulations prohibit the taking, possession, transportation, or sale of any of the animal species designated by State law as endangered or threatened without the issuance of a permit. The Georgetown and Salado salamanders are not listed on the Texas State List of Endangered or Threatened Species (TPWD 2013, p. 3). Therefore, these species are receiving no direct protection from State of Texas regulations.

Under authority of the T.A.C. (Title 30, Chapter 213), the TCEQ regulates activities having the potential for polluting the Edwards Aquifer and hydrologically connected surface streams through the Edwards Aquifer Protection Program or "Edwards Rules." The Edwards Rules require a number of water quality protection measures for new development occurring in the recharge, transition, and contributing zones of the Edwards Aquifer. The Edwards Rules were enacted to protect existing and potential uses of groundwater and maintain Texas Surface Water Quality Standards. Specifically, a water pollution abatement plan (WPAP) must be submitted to the TCEQ in order to conduct any construction-related or post-construction activities on the recharge zone. The WPAP must include a description of the site and location maps, a geologic assessment conducted by a geologist, and a technical report describing, among other things, temporary and permanent best management practices (BMPs) designed to reduce pollution related impacts to nearby water bodies.

The permanent BMPs and measures identified in the WPAP are designed, constructed, operated, and maintained to remove at least 80 percent of the incremental increase in annual mass loading of total suspended solids from the site caused by the regulated activity (TCEQ 2005, p. 3–1). The use of this standard results in some level of water quality degradation since up to 20 percent of total suspended solids are ultimately discharged from the site into receiving waterways (for example, creeks, rivers, lakes). Furthermore, this standard does not address the concentration of dissolved pollutants, such as nitrates, chloride, pesticides, and other contaminants shown to have detrimental impacts on salamander biology. Separate Edwards Aquifer protection plans are required for organized sewage collection systems, underground storage tank facilities, and aboveground storage tank facilities. Regulated activities exempt from the requirements of the Edwards Rules are: (1) The installation of natural gas lines; (2) the installation of telephone lines; (3) the installation of electric lines; (4) the installation of water lines; and (5) the installation of other utility lines that are not designed to carry and will not carry pollutants, stormwater runoff, sewage effluent, or treated effluent from a wastewater treatment facility.

Under the Edwards Rules, temporary erosion and sedimentation controls are required to be installed and maintained during construction for any exempted activities located on the recharge zone. Individual land owners who seek to construct single-family residences on sites are exempt from the Edwards Aquifer protection plan application requirements provided the plans do not exceed 20 percent impervious cover. Similarly, the Executive Director of the TCEQ may waive the requirements for permanent BMPs for multifamily residential subdivisions, schools, or small businesses when 20 percent or less impervious cover is used at the site.

The jurisdiction of the Edwards Rules does not extend into Bell County (TCEQ 2001, p. 1), which is where all seven of the known Salado salamander populations are located. Therefore, many salamander populations do not directly benefit from these protections. The Service recognizes that implementation of the Edwards Rules in northern Williamson County has the potential to positively influence conditions at some spring sites occupied by the Salado salamander in southern Bell County. However, all seven occupied sites and more than half of the associated surface watersheds are located within Bell County and receive no protection from the Edwards Rules.

The Edwards Rules provide some benefit to water quality, however, they were not designed to remove all types of pollutants and they still allow impacts to basic watershed hydrology, chemistry, and biology. The Edwards Rules do not address land use, impervious cover limitations, some nonpoint-source pollution, or application of fertilizers and pesticides over the recharge zone (30 TAC 213.3). They also do not contain requirements for stream buffers, surface buffers around springs, or the protection of stream channels from erosion, all of which would help to minimize water quality degradation in light of projected human population growth in Williamson and Bell Counties. In addition, the purpose of the Edwards Rules is to ". . . protect existing and potential uses of groundwater and maintain Texas Surface Water Quality Standards", which may not be entirely protective of the Georgetown and Salado salamanders. We are unaware of any State or Federal water quality regulations that are more restrictive than the TCEQ's Edwards Rules in Bell or Williamson Counties outside the City of Austin.

Texas has an extensive program for the management and protection of water that operates under State statutes and the Federal Clean Water Act (CWA). It includes regulatory programs such as the following: Texas Pollutant Discharge Elimination System (to control point-source pollution), Texas Surface Water Quality Standards (to protect designated uses like recreation or aquatic life), and Total Maximum Daily Load Program (under Section 303(d) of the CWA) (to

reduce pollution loading for impaired waters)

In 1998, the State of Texas assumed the authority from the Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System. As a result, the TCEQ's TPDES program has regulatory authority over discharges of pollutants to Texas surface water, with the exception of discharges associated with oil, gas, and geothermal exploration and development activities, which are regulated by the Railroad Commission of Texas. In addition, stormwater discharges as a result of agricultural activities are not subject to TPDES permitting requirements. The TCEQ issues two general permits that authorize the discharge of stormwater and non-stormwater to surface waters in the State associated with: (1) Small municipal separate storm sewer systems (MS4) (TPDES General Permit #TXR040000) and (2) construction sites (TPDES General Permit #TXR150000). The MS4 permit covers small municipal separate storm sewer systems that were fully or partially located within an urbanized area, as determined by the 2000 Decennial Census by the U.S. Bureau of Census, and the construction general permit covers discharges of stormwater runoff from small and large construction activities impacting greater than 1 acre of land. In addition, both of these permits require new discharges to meet the requirements of the Edwards Rules.

To be covered under the MS4 general permit, a municipality must submit a Notice of Intent (NOI) and a copy of their Storm Water Management Program (SWMP) to TCEQ. The SWMP must include a description of how that municipality is implementing the seven minimum control measures, which include the following: (1) Public education and outreach; (2) public involvement and participation; (3) detection and elimination of illicit discharges; (4) construction site stormwater runoff control (when greater than 1 ac (0.4 ha) is disturbed); (5) post-construction stormwater management; (6) pollution prevention and good housekeeping for municipal operations; and (7) authorization for municipal construction activities (optional). The City of Georgetown and the Village of Salado were not previously considered urbanized areas and covered under the MS4 general permit. Therefore, they were not operating under a SWMP authorized by TCEQ. However, the City of Georgetown is now considered a small MS4 under the new TPDES general permit and must develop and implement a Storm Water Management Program (SWMP) within five years (TCEQ 2013, p. 22).

To be covered under the construction general permit, an applicant must prepare a stormwater pollution and prevention plan (SWP3) that describes the implementation of practices that will be used to minimize, to the extent practicable, the discharge of pollutants in stormwater associated with construction activity and non-stormwater discharges. For activities that disturb greater than 5 ac (2 ha), the applicant must submit an NOI to TCEQ as part of the approval process. As stated above, the two general permits issued by the TCEQ do not address discharge of pollutants to surface waters from oil, gas, and geothermal exploration and geothermal development activities, stormwater discharges associated with agricultural activities, and from activities disturbing less than 5 acres (2 ha) of land. Despite the significant value the TPDES program has in regulating point-source pollution discharged to surface waters in Texas, it does not adequately address all sources of water quality degradation, including nonpoint-source pollution and the exceptions mentioned above, that have the potential to negatively impact the Georgetown and Salado salamanders.

In reviewing the 2012 Texas Water Quality Integrated Report prepared by the TCEQ, the Service identified 5 of 9 (56 percent) stream segments located within surface watersheds occupied by the Georgetown and Salado salamanders where parameters within water samples exceeded screening level criteria (TCEQ 2012b, pp. 646–736). The analysis of surface water quality monitoring data collected by TCEQ indicated "screening level concerns" for nitrate, dissolved oxygen, and impaired benthic communities. The TCEQ screening level for nitrate (1.95 mg/L) is within the range of concentrations (1.0 to 3.6 mg/L) above which the scientific literature indicates may be toxic to aquatic organisms (Camargo *et al.* 2005, p. 1,264; Hickey and Martin 2009, pp. ii, 17–18; Rouse 1999, p. 802). In addition, the TCEQ screening level for dissolved oxygen (5.0 mg/L) is similar to that recommended by the Service in 2006 to be protective of federally listed salamanders (White *et al.* 2006, p. 51). The Service also received baseline water quality data from grab samples (that is, samples collected at one point in time) collected during the summer of 2012 at four springs (Hogg Hollow, Swinbank, Cedar Breaks Hiking Trail, and Cobb Springs) occupied by the Georgetown salamander (SWCA 2012, pp. 11–20). Of these four samples, one sample (collected from Swinbank Springs) had nitrate levels that exceeded the TCEQ screening level, and one sample (collected from Cedar Breaks Hiking Trail Spring) exceeded the TCEQ screening levels for *E. coli* and fecal coliform bacteria. Therefore, water quality data collected and analyzed by the TCEQ and specific water quality data collected by SWCA at springs occupied by the Georgetown salamander support our concern with the adequacy of existing regulations to protect the Georgetown and Salado salamanders from the effects of water quality degradation.

The TCEQ and Service jointly developed voluntary water quality protection measures, also known as Optional Enhanced Measures, for developers to implement that would minimize water quality effects to springs systems and other aquatic habitats within the Edwards Aquifer region of Texas by providing a higher level of water quality protection (TCEQ 2005, p. i). In February 2005, the Service concurred that these measures, if implemented, would protect several aquatic species, including the Georgetown, Barton Springs, and San Marcos salamanders from "take under Section 9 of the Act" due to water quality degradation resulting from development in the Edwards Aquifer (TCEQ 2007, p. 1). This concurrence does not cover projects that: (1) Occur outside the area regulated under the Edwards Rules; (2) result in water quality impacts that may affect federally listed species not specifically named above; (3) result in impacts to federally listed species that are not water quality related; or (4) occur within 1 mile (1.6 km) of spring openings that provide habitat for federally listed species.

These "Optional Enhanced Measures" were intended to be used for the purpose of avoiding take to the identified species from water quality impacts, and they do not address any of the other threats to the Georgetown or Salado salamanders. Due to the voluntary nature of the measures, the Service does not consider them to be a regulatory mechanism. In addition, TCEQ reported that only 17 Edwards Aquifer applications have been approved under the Optional Enhanced Measures between February 2005 and May 2012, and the majority of these applications were for sites in the vicinity of Dripping Springs, Texas, which is outside the range of the Georgetown and Salado salamanders (Beatty 2012, TCEQ, pers. comm.).

Quarry operation is a regulated activity under the Edwards Aquifer Rules (Title 30, Texas Administrative Code, Chapter 213, or 30 TAC 213) and

owners must apply to the TCEQ in order to create or expand a quarry located in the recharge or contributing zone of the Edwards Aquifer. However, as stated above, the jurisdiction of the Edwards Rules does not extend into Bell County (TCEQ 2001, p. 1), which is where all seven of the known Salado salamander populations are located. TCEQ conducted an inventory of rock quarries in 2004 (Berehe 2005, pp. 44–45). Out of the TCEQ inventoried quarries statewide, 40 quarry sites were inventoried in Burnet, Travis and Williamson counties. More than half of these sites in the study area had no permit or were violating the minimum standards of their permits either by an unauthorized discharge of sediment or by air quality violation. (Berehe 2005, pp. 44–45)

In 2012, TCEQ produced a guidance document outlining recommended measures specific for quarry operations (Barrett and Eck 2012, entire). These measures include spill response measures, separating quarry-pit floor from the groundwater level, setbacks and buffers for sensitive recharge features and streams, creating berms to protect surface runoff water from draining into quarry pits, and safely storing and moving fuel (Barrett and Eck 2012, pp. 1–17). Quarry operators can seek variances, exceptions, or revisions to these recommendations based on site-specific facts (Barrett and Eck 2012, p. 1). This clarifying guidance document could aid in protecting Georgetown salamander habitat from the threat of quarry activities if quarry operators implement the recommended measures, but future study is needed to determine how quarry sites in Williamson County are complying with the Edwards Rules.

Local Ordinances

The Service has reviewed ordinances administered by each of the municipalities and counties to determine if they contain measures protective of salamanders above and beyond those already required through other regulatory mechanisms (Clean Water Act, T.A.C., etc.).

The City of Georgetown has standards, such as impervious cover limits, that relate to the protection of water quality. According to Chapter 11 of the Georgetown Unified Development Code, impervious cover limits have been adopted to minimize negative flooding effects from stormwater runoff and to control, minimize, and abate water pollution resulting from urban runoff. The impervious cover limits and stormwater control requirements apply to all development in the City of Georgetown and its extraterritorial jurisdiction. Impervious cover limits are as high as 70 percent for small commercial developments to as low as 40 percent for some single family residential developments within its extraterritorial jurisdiction.

The Georgetown City Council approved the Edwards Aquifer Recharge Zone Water Quality Ordinance on December 20, 2013 (Ordinance No. 2013–59). The purpose of this ordinance is to reduce the principal threats to the Georgetown salamander within the City of Georgetown and its extraterritorial jurisdiction through the protection of water quality near occupied sites, enhancement of water quality protection throughout the Edwards Aquifer recharge zone, and establishment of protective buffers around all springs and streams. Specifically, the primary conservation measures that will be implemented within the Edwards Aquifer recharge zone include: (1) A requirement for geological assessments to identify all springs and streams on a development site; (2) the establishment of a no-disturbance zone that extends 262 ft (80 m) upstream and downstream from sites occupied by Georgetown salamanders; (3) the establishment of a zone that extends 984 ft (300 m) around all occupied sites within which development is limited to Residential Estate and Residential Low Density District as defined in the City of Georgetown's Unified Development Code; (4) the establishment of a no-disturbance zone that extends 164 ft (50 m) around all springs; (5) the establishment of stream buffers for streams that drain more than 64 acres (26 hectares); and (6) a requirement that permanent structural water quality controls (BMPs) remove eighty-five percent (85 percent) of total suspended solids for the entire project which is an increase of 5 percent above what was previously required under the Edwards Aquifer Rules.

As required by the new ordinance, the City of Georgetown adopted the Georgetown Water Quality Management Plan, which will implement many of the minimum control measures required under the TPDES general permit for small municipal separate storm sewer systems (MS4) (see above discussion). Because the City of Georgetown is considered a small MS4 under the new TPDES general permit, they are required to develop and implement a Storm Water Management Program (SWMP) and the associated minimum control measures within 5 years (TCEQ 2013, p. 22). However, the City of Georgetown has committed to developing minimum control measures under their Water Quality Management Plan within 6 months (City of Georgetown 2013, p. 1). In addition, the Williamson County Conservation Foundation (WCCF) also recently adopted an adaptive management plan as part of their overall conservation plan for the Georgetown salamander (WCCF 2013, p. 1). This plan will enable the continuation and expansion of water quality monitoring, conservation efforts, and scientific research to conserve the Georgetown salamander.

As discussed above under Factor A, habitat modification, in the form of degraded water quality and quantity and disturbance of spring sites, has been identified as the primary threat to the Georgetown salamander. The ordinance and associated documents approved by the Georgetown City Council reduce some of the threats from water quality degradation and disturbance at spring sites. Specifically, water quality threats have been reduced by requiring permanent structural water quality controls in developments to remove eighty-five percent (85 percent) of total suspended solids from the entire site. Previous regulations, under TCEQ's Edwards Rules, do not require existing impervious cover on a site to be included in the calculation of total suspended solids and only require eighty percent (80 percent) of total suspended solids be removed.

The new ordinance increases the required amount of total suspended solids that must be removed from stormwater leaving a development site. In addition, requirements for stream buffers and surface buffers around springs reduces water quality degradation by providing vegetated filters that can assist in the further removal of sediments and pollutants from stormwater. Surface buffers around occupied sites will minimize the possibility that the physical disturbance of salamander habitat will occur as the result of construction activities. The ordinance permits Residential Estate and Residential Low Density District residential uses to occur as close as 262 ft (80 m) from occupied Georgetown salamander sites and does not limit the type of development that can occur outside of the 984-ft (300-m) buffer. The ordinance also requires that roadways or expansions to existing roadways that provide a capacity of 25,000 vehicles per day shall provide for spill containment as described in the TCEQ's Optional Enhanced Measures. This will reduce some of the future impacts to salamander habitat by preventing some hazardous spills from entering water bodies.

Five developments within the City of Georgetown or its ETJ are exempted

from the requirements of the new ordinance because they were platted before the ordinance was approved. The plats for these developments show lots and other development activities proposed or currently occurring within 984 ft (300 m), and for some within 262 ft (80 m), of six occupied Georgetown salamander sites (Shadow Canyon Spring, Cowan Spring, Bat Well Cave, Water Tank Cave, Knight Spring and Cedar Breaks Hiking Trail) (Covey 2014, pers. comm.). Although some of these developments appear to avoid the no-disturbance zone (262 ft (80 m)), we were not provided enough information to determine if all or some of the requirements of the ordinance would be met by each of the developments as planned. According to the County, it does appear that these developments meet the intent of the ordinance (Covey 2014, pers. comm.)

There are no additional standards specifically related to water quality required by Bell or Williamson Counties or for development within the Village of Salado.

Groundwater Conservation Districts

The Clearwater Underground Water Conservation District (CUWCD) is responsible for managing groundwater resources within Bell County. They are statutorily obligated under Chapter 36 of the Texas Water Code to regulate water wells and groundwater withdrawals that have the potential to impact spring flow and aquifer levels. The CUWCD adopted a desired future condition (that is, goal) for the Edwards Aquifer in Bell County as the maintenance of at least 100 acre-feet (123,348 cubic meters) per month of spring flow in Salado Creek under conditions experienced during the drought of record in Bell County (Aaron 2012, CUWCD, pers. comm.). The CUWCD has also developed a Drought Management Plan that requires staff to monitor discharge values and determine when the CUWCD needs to declare a particular drought stage, from Stage 1 "Awareness" to Stage 4 "Critical" (Aaron 2012, CUWCD, pers. comm.). However, water conservation goals and reduction of use for each drought stage are voluntary.

One of the two gauges (FM 2843 bridge) used by the CUWCD to monitor Salado Springs discharge measured no surface flow in 6 of 15 months during the period of time between November 2011 and January 2013 (Aaron 2013, CUWCD, pers. comm.). In addition, during visits to Salado salamander sites Service personnel observed no surface flow at Robertson Springs (September 2011 and April 2013) and Lil' Bubbly Springs (April 2013 and July 2013). Despite the documented loss of flow in areas where the Salado salamander occurs, the desired future condition of 100 ac-ft (123,348 cubic meters) per month as measured by the CUWCD was exceeded throughout this timeframe. The Service recognizes the desired future condition adopted by the CUWCD as a valuable tool for protecting groundwater; however, it is not adequate to ensure spring flow at all sites occupied by the Salado salamander.

Williamson County does not currently have a groundwater conservation district that can manage groundwater resources countywide. A 1990 study by the TCEQ and TWDB determined that Williamson County did not meet the criteria to be designated as a "critical area" primarily because of the availability of surface water supplies to meet projected needs (Berehe 2005, p. 1). In 2005, TCEQ again declined to designate Williamson County a priority groundwater management area, which would lead to the creation of a groundwater conservation district (Berehe 2005, p. 3). This decision was based on TCEQ's opinion that Williamson County's water supply concerns are mostly solved with current management strategies to increasingly rely on surface water (as laid out in TWDB 2012, p. 190) (Berehe 2005, p. 3). The City Manager has recently indicated that the City of Georgetown will not use water from the Edwards Aquifer in plans for future and additional municipal water supplies (Brandenburg 2013, p .1). Instead, the City of Georgetown intends to use surface water or non-Edwards wells for future sources of water.

TCEQ noted that nearly all of Williamson County is within certificated water purveyor service areas, and through conservation programs and efforts to meet new demands with surface water sources, these entities can largely maintain their present groundwater systems (Berehe 2005, p. 65). All wholesale and retail water suppliers are required to prepare and adopt drought contingency plans under TCEQ rules (Title 30, Texas Administrative Code, Chapter 288) (Berehe 2005, p. 64). However, these types of entities do not have authority to control large-scale groundwater pumpage for private purposes that could potentially impact a shared groundwater supply (Berehe 2005, p. 65). Thus, groundwater levels may continue to decline due to private pumping. The CUWCD in Bell County noted the effectiveness of their groundwater management measures may be lessened if surrounding areas (for example, Williamson County) are not likewise managing the shared groundwater resource (Berehe 2005, p. 3). However, in comments on our proposed rule, CUWCD stated that their ability to protect spring flow is not impacted by pumping in Travis or Williamson Counties (Aaron 2012, CUWCD, pers. comm.).

Conclusion of Factor D

Surface water quality data collected by TCEQ and SWCA indicate that water quality degradation is occurring within many of the surface watersheds occupied by the Georgetown and Salado salamanders despite the existence of State and local regulatory mechanisms to manage stormwater and protect water quality (SWCA 2012, pp. 11–20; TCEQ 2012b, pp. 646–736). Additionally, the threat to the Salado salamander from a reduction in water quantity and the associated loss of spring flow has not been completely alleviated despite efforts made in Bell County by the CUWCD. No regulatory mechanisms are in place to manage groundwater withdrawals in Williamson County. The human population in Williamson and Bell Counties is projected to increase by 377 and 128 percent, respectively, between 2010 and 2050. The associated increase in urbanization is likely to result in continued impacts to water quality absent additional regulatory mechanisms to prevent this from occurring.

The City of Georgetown's Edwards Aquifer Recharge Zone Water Quality Ordinance, Water Quality Management Plan, and Adaptive Management Plan will help to reduce some of the threats to groundwater pollution that are typically associated with urbanized areas. Additionally, for the Georgetown salamander, the Adaptive Management Working Group is charged specifically with reviewing Georgetown salamander monitoring data and new research over time and recommending improvements to the ordinance that may be necessary to ensure that it achieves its stated purposes. This Adaptive Management Working Group, which includes representatives of the Service and TPWD, will also review and make recommendations on the approval of any variances to the ordinance to ensure that granting a variance will not be detrimental to the preservation of the Georgetown salamander. While the beneficial actions taken by the Georgetown City Council will reduce some of the threats to the Georgetown salamander, there are additional threats that have not been addressed by the ordinance. Therefore, we consider the inadequacy of existing regulatory

mechanisms to be an ongoing threat to the Georgetown and Salado salamanders now and in the future.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

Small Population Size and Stochastic Events

The Georgetown and Salado salamanders may be susceptible to threats associated with small population size and impacts from stochastic events. The risk of extinction for any species is known to be highly indirectly correlated with population size (O'Grady *et al.* 2004, pp. 516, 518; Pimm *et al.* 1988, pp. 774–775). In other words, the smaller the population the greater the overall risk of extinction. Stochastic events from either environmental factors (random events such as severe weather) or demographic factors (random causes of births and deaths of individuals) increase the risk of extinction of the Georgetown and Salado salamanders because of their limited range and small population sizes (Melbourne and Hastings 2008, p. 100). At small population levels, the effects of demographic stochasticity alone greatly increase the risk of local extinctions (Van Dyke 2008, p. 218).

Genetic factors play a large role in influencing the long-term viability of small populations. Although it remains a complex field of study, conservation genetics research has demonstrated that long-term inbreeding depression (a pattern of reduced reproduction and survival as a result of genetic relatedness) can occur within small populations (Frankham 1995, p. 796; Latter *et al.* 1995, p. 294; Van Dyke 2008, pp. 155–156). Inbreeding depression contributes to further population decline and reduced reproduction and survival in small populations, and can contribute to a species' extinction (Van Dyke 2008, pp. 172–173). Small populations may also suffer a loss of genetic diversity, reducing the ability of these populations to evolve to changing environmental conditions, such as climate change (Visser 2008, pp. 649–655; Traill *et al.* 2010, pp. 29–30).

In addition, ecological factors such as Allee effects may manifest at small population sizes, further increasing the risk of extinction (Courchamp *et al.* 1999, p. 405). Allee effects are defined as a positive relationship between any component of individual fitness (the ability to survive and reproduce) and either numbers or density of individuals of the same species (Stephens *et al.* 1999, p. 186). In other words, an Allee effect refers to the phenomenon where reproduction and survival rates of individuals increase with increasing population density. For example, when a species has a small population, it may be more difficult for individuals to encounter mates, reducing their ability to produce offspring. Small population sizes can act synergistically with ecological traits (such as being a habitat specialist and having a limited distribution as in the Georgetown and Salado salamanders) to greatly increase risk of extinction (Davies *et al.* 2004, p. 270).

Current evidence from integrated work on population dynamics shows that setting conservation targets at only a few hundred individuals does not properly account for the synergistic impacts of multiple threats facing a population (Traill *et al.* 2010, p. 32). As discussed above, small populations are vulnerable to both stochastic demographic factors and genetic factors. Studies across taxonomic groups have found both the demographic and genetic constraints on populations require sizes of at least 5,000 adult individuals to ensure long-term persistence (Traill *et al.* 2010, p. 30). Populations below this number are considered small and at increased risk of extinction. It is also important to note that this general estimate does not take into account species-specific ecological factors that may impact extinction risk, such as Allee effects.

The population size of Georgetown and Salado salamanders is unknown for most sites. Recent mark-recapture studies on the Georgetown salamander estimated surface population sizes of 100 to 200 adult salamanders at two sites thought to be of the highest quality for this species (Twin Springs and Swinbank Springs, Pierce 2011a, p. 18). Georgetown salamander populations are likely smaller at other, lower quality sites. There are no population estimates available for any Salado salamander sites, but recent surveys have indicated that Salado salamanders are exceedingly rare at the four most impacted sites and much more abundant at the three least impacted sites (Gluesenkamp 2011a, b, TPWD, pers. comm.). Because most of the sites occupied by the Georgetown and Salado salamanders are not known to have many individuals, any of the threats described above or stochastic events that would not otherwise be considered a threat could extirpate populations.

The highly restricted ranges of the Georgetown and Salado salamanders and their entirely aquatic environmental habitat make them extremely vulnerable to threats such as decreases in water quality and quantity. The Georgetown salamander is only known from 15 surface and 2 cave sites. This species has not been observed in more than 20 years at San Gabriel Spring and more than 10 years at Buford Hollow Spring, despite several survey efforts to find it (Chippindale et al. 2000, p. 40, Pierce 2011b, c, Southwestern University, pers. comm.). We are unaware of any population surveys in the last 10 years from a number of sites (such as Cedar Breaks Hiking Trail, Shadow Canyon, and Bat Well). Georgetown salamanders continue to be observed at the remaining 12 sites (Avant Spring, Swinbank Spring, Knight Spring, Twin Springs, Cowan Creek Spring, Cedar Hollow Spring, Cobbs Spring/Cobbs Well, Garey Ranch Spring, Hogg Hollow Spring, Hogg Hollow II Spring, Walnut Spring, and Water Tank Cave) (Pierce 2011c, pers. comm.; Gluesenkamp 2011a, TPWD, pers. comm.). Similarly, the Salado salamander has only been found at seven spring sites, and two of these sites (Big Boiling and Lil' Bubbly Springs) are very close together and are likely one population. Due to their very limited distribution, these salamanders are especially sensitive to stochastic incidences, such as severe and unusual storm events (which can dramatically affect dissolved oxygen levels), catastrophic contaminant spills, and leaks of harmful substances.

Although rare, catastrophic events pose a significant threat to small populations because they have the potential to eliminate all individuals in a small group (Van Dyke 2008, p. 218). Although it may be possible for *Eurycea* salamanders to travel through aquifer conduits from one surface population to another, or that two individuals from different populations could breed in subsurface habitat, there is no direct evidence that they currently migrate from one surface population to another on a regular basis. Although gene flow between populations has been detected in other central Texas *Eurycea* salamander species (TPWD 2012, pers. comm.), this does not necessarily mean that there is current or routine dispersal between salamander populations that could allow for recolonization of a site should the population be extirpated by a catastrophic event (Gillespie 2012, University of Texas, pers. comm.).

In conclusion, we do not consider small population sizes to be a threat in and of itself to the Georgetown and Salado salamanders, but their small population sizes make them more vulnerable to extinction from other existing or potential threats, such as stochastic events. Restricted ranges could negatively affect the Georgetown and Salado salamanders in combination

with other threats (such as water quality or water quantity degradation) and lead to the species being at a higher risk of extinction. We consider the level of impacts from stochastic events to be moderate for the Georgetown salamander, because this species has 17 populations over a broader range. On the other hand, recolonization following a stochastic event is less likely for the Salado salamander due to its more limited distribution and low numbers. Therefore, the impact from a stochastic event for the Salado salamander is a significant threat.

Ultraviolet Radiation

Increased levels of ultraviolet-B (UV–B) radiation, due to depletion of the stratospheric ozone layers, may lead to declines in amphibian populations (Blaustein and Kiesecker 2002, pp. 598–600). For example, research has demonstrated that UV–B radiation causes significant mortality and deformities in developing long-toed salamanders (*Ambystoma macrodactylum*) (Blaustein *et al.* 1997, p. 13,735). Exposure to UV–B radiation reduces growth in clawed frogs (*Xenopus laevis*) (Hatch and Burton, 1998, p. 1,783) and lowers hatching success in Cascades frogs (*Rana cascadae*) and western toads (*Bufo boreas*) (Kiesecker and Blaustein 1995, pp. 11,050–11,051). In lab experiments with spotted salamanders, UV–B radiation diminished their swimming ability (Bommarito *et al.* 2010, p. 1151). Additionally, UV–B radiation may act synergistically (the total effect is greater than the sum of the individual effects) with other factors (for example, contaminants, pH, pathogens) to cause declines in amphibians (Alford and Richards 1999, p. 141; see "Synergistic and Additive Interactions among Stressors" below). Some researchers have indicated that future increases in UV–B radiation will have significant detrimental impacts on amphibians that are sensitive to this radiation (Blaustein and Belden 2003, p. 95).

The effect of increased UV–B radiation on the Georgetown and Salado salamanders is unknown. It is questionable whether the few cave populations of the Georgetown salamander that are restricted entirely to the subsurface are exposed to UV–B radiation. Surface populations may receive some protection from UV–B radiation through shading from trees or from hiding under rocks at some spring sites. Removal of natural riparian vegetation and substrate alteration may put the Georgetown and Salado salamanders at greater risk of UV–B exposure. Because eggs are likely deposited underground (Bendik 2011b, COA, pers. comm.), UV–B radiation may have no impact on the hatching success of these species.

In conclusion, the effect of increased UV–B radiation has the potential to cause deformities or developmental problems to individuals, but we do not consider this to significantly contribute to the risk of extinction for the Georgetown and Salado salamanders at this time. However, UV–B radiation could negatively affect any of these salamanders in combination with other threats (such as water quality or water quantity degradation) and contribute to significant declines in population sizes.

Synergistic and Additive Interactions Among Stressors

The interactions among multiple stressors (for example, contaminants, UV–B radiation, pathogens, sedimentation, and drought) may be contributing to amphibian population declines (Blaustein and Kiesecker 2002, p. 598). Multiple stressors may act additively or synergistically to have greater detrimental impacts on amphibians compared to a single stressor alone. Kiesecker and Blaustein (1995, p. 11,051) found a synergistic effect between UV–B radiation and a pathogen in Cascades frogs and western toads. Researchers demonstrated that reduced pH levels and increased levels of UV–B radiation independently had no effect on leopard frog (*Rana pipiens*) larvae; however, when combined, these two caused significant mortality (Long *et al.* 1995, p. 1,302). Additionally, researchers demonstrated that UV–B radiation increases the toxicity of PAHs, which can cause mortality and deformities on developing amphibians (Hatch and Burton 1998, pp. 1,780–1,783). Beattie *et al.* (1992, p. 566) demonstrated that aluminum becomes toxic to amphibians at low pH levels. Also, disease outbreaks may occur only when there are contaminants or other stressors in the environment that reduce immunity (Alford and Richards 1999, p. 141). For example, Christin *et al.* (2003, pp. 1,129–1,132) demonstrated that mixtures of pesticides reduced the immunity to parasitic infections in leopard frogs. Finally, the interaction of different stressors may interfere with a salamander species' ability to adapt to a stressor. Miller *et al.* (2007, pp. 82–83) found that although southern two-lined salamander larvae could adapt to low-flow conditions by migrating down into the water table, they were unable to perform this behavior when the interstitial spaces between rocks were filled with sediment.

Currently, the synergistic effect between multiple stressors on the Georgetown and Salado salamanders is not fully known. Furthermore, different species of amphibians differ in their reactions to stressors and combinations of stressors (Kiesecker and Blaustein 1995, p. 11,051; Relyea *et al.* 2009, pp. 367–368; Rohr *et al.* 2003, pp. 2,387–2,390). Studies that examine the effects of interactions among multiple stressors on the Georgetown and Salado salamanders are lacking. However, based on the number of examples in other amphibians, the possibility of synergistic effects on the salamanders cannot be discounted.

Conclusion of Factor E

The effect of increased UV–B radiation is an unstudied stressor to the Georgetown and Salado salamanders that has the potential to cause deformities or development problems. There is no evidence that the salamander species' exposure to UV–B radiation is increasing or spreading. In addition, small population sizes at most of the sites for the Georgetown and Salado salamanders increases the risk of local extirpation events. We do not consider small population sizes to be a threat in and of itself to the Georgetown and Salado salamanders, but their small population sizes make them more vulnerable to extinction from other existing or potential threats, such as stochastic events. Thus, we consider the level of impacts from stochastic events to be high for the Georgetown and Salado salamanders due to their limited distributions and low number of populations. Finally, the synergistic and additive interactions among multiple stressors (contaminants, UV–B radiation, pathogens) may impact Georgetown and Salado salamanders based on studies of other amphibians.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

We have no information on any conservation efforts currently underway to reduce the effects of UV–B radiation, small population sizes, stochastic events, or the synergistic and additive interactions among multiple stressors on the Georgetown and Salado salamanders.

Cumulative Impacts

Cumulative Effects From Factors A Through E

Some of the threats discussed in this finding could work in concert with one another to cumulatively create situations that impact the Georgetown

and Salado salamanders. Some threats to these species may seem to be of low significance by themselves, but when you consider other threats that are occurring at each site, such as small population sizes, the risk of extirpation is increased. Furthermore, we have no direct evidence that salamanders currently migrate from one population to another on a regular basis, and many of the populations are isolated in a way that makes re-colonization of extirpated sites very unlikely. Cumulatively, as threats to the species increase over time in tandem with increasing urbanization within the surface watersheds of these species, more and more populations will be lost, which will increase the species' risk of extinction.

Overall Threats Summary

The primary threat to the Georgetown and Salado salamanders is the present or future destruction, modification, or curtailment of their habitat or range (Factor A) in the form of reduced water quality and quantity and disturbance of spring sites (surface habitat). Reductions in water quality will occur primarily as a result of urbanization, which increases the amount of impervious cover in the watershed and exposes the salamanders to more hazardous material sources. Impervious cover increases storm flow, erosion, and sedimentation. Impervious cover also changes natural flow regimes within watersheds and increases the transport of contaminants common in urban environments, such as oils, metals, fertilizers, and pesticides. Expanding urbanization results in an increase of these contaminants within the watershed, which degrades water quality at salamander spring sites. Additionally, urbanization increases nutrient loads at spring sites, which can lead to decreases in dissolved oxygen levels. Construction activities associated with urbanization are a threat to both water quality and quantity because they can increase sedimentation and exposure to contaminants, as well as dewater springs by intercepting aquifer conduits.

Various other threats to habitat exist for the Georgetown and Salado salamanders as well. Drought, which may be compounded by the effects of global climate change, also degrades water quantity and reduces available habitat for the salamanders. Water quantity can also be reduced by groundwater pumping and decreases in baseflow due to increases in impervious cover. Flood events contribute to the salamanders' risks of extinction by degrading water quality through increased contaminants levels and sedimentation, which may damage or alter substrates, and by removing rocky substrates or washing salamanders out of suitable habitat. Impoundments are also a threat to these species' habitat because of their tendency to alter the stream substrate and increase predacious fish abundance. Feral hogs and livestock are threats because they can physically alter the salamander's surface habitat and increase nutrients. Additionally, catastrophic spills and leaks remain a threat for many salamander locations due to the abundance of point-sources and history of past spill events. All of these threats are projected to increase in the future, as the human population and development increases within watersheds that provide habitat for these salamanders. The human population is projected to increase by 377 percent in the range of the Georgetown salamander and by 128 percent in the range of the Salado salamander by 2050. Some of these threats are moderated, in part, by ongoing conservation efforts, preserves, and other programs in place to protect land from the effects of urbanization and to gather water quality data that would be helpful in designing conservation strategies for the salamander species. Overall, we consider the combined threats of Factor A to be ongoing and with a high degree of impact to the Georgetown and Salado salamanders and their habitats in the future.

Another factor we considered is Factor D, the inadequacy of existing regulatory mechanisms. Surface water quality data collected by TCEQ indicates that water quality degradation is occurring within many of the surface watersheds occupied by the Georgetown and Salado salamanders despite the existence of numerous state and local regulatory mechanisms to manage stormwater and protect water quality. Additionally, the threat to the Salado salamander from a reduction in water quantity and the associated loss of spring flow has not been completely alleviated through the management of groundwater in Bell County by the CUWCD. Groundwater resources are not holistically managed in Williamson County to protect the aquifer from depletion from private pumping. Human population growth and urbanization in Williamson and Bell Counties is projected to continue into the future as well as the associated impacts to water quality and quantity (see Factor A discussion above). However, the Edwards Aquifer Recharge Zone Water Quality Ordinance approved by the Georgetown City Council in December 2013 is expected to reduce some of the threats to the Georgetown salamander from water quality degradation and direct impacts to surface habitat. Existing regulations are not providing adequate protection for the Georgetown and Salado salamanders and their habitats. Therefore, we consider the existing regulatory mechanisms inadequate to protect the Georgetown and Salado salamander now and in the future.

Under Factor E, we identified several stressors that could negatively impact any of the Georgetown and Salado salamanders, including the increased risk of local extirpation events due to small population sizes and stochastic events, UV–B radiation, and the synergistic and additive effects of multiple stressors. Although none of these stressors rose to the level of being considered a threat by itself, small population sizes and restricted ranges make the Georgetown and Salado salamanders more vulnerable to extirpation from other existing or potential threats, such as stochastic events. Thus, we consider the level of impacts from stochastic events to be high for the Georgetown and Salado salamanders due to their low number of populations and limited distributions.

Determination

Standard for Review

Section 4 of the Act, 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(b)(1)(a), the Secretary is to make endangered or threatened determinations required by subsection 4(a)(1) solely on the basis of the best scientific and commercial data available 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 endangered or threatened 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 endangered or threatened, 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.

We evaluated whether the Georgetown and Salado salamanders are in danger of extinction now (that is, an endangered species) or are likely to become in danger of extinction in the foreseeable future (that is, 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 future conservation status of the species. A key statutory difference between a threatened species and an endangered 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).

Listing Status Determination for the Georgetown Salamander

In the proposed rule (77 FR 50768, August 22, 2012), the Georgetown salamander species was proposed as endangered, rather than threatened, because at that time, we determined the threats to be imminent, and their potential impacts to the species would be catastrophic given the very limited range of the species. For this final determination, we took into account data that were made available after the proposed rule published, information provided by commenters on the proposed rule, and further discussions within the Service to determine whether the Georgetown salamander should be classified as endangered or threatened. Based on our review of the best available scientific and commercial information, we conclude that the Georgetown salamander is likely to become in danger of extinction in the foreseeable future throughout all of its range and, therefore, meets the definition of a threatened species. This finding, explained below, is based on our conclusions that some habitat supporting populations of the species have begun to experience impacts from threats, and threats are expected to increase in the future. As the threats increase, we expect Georgetown salamander populations to decline and be extirpated, reducing the overall representation and redundancy across the species range and increasing the species risk of extinction. We find the Georgetown salamander will be at an elevated risk of extinction in the future. While beneficial actions taken by the Georgetown City Council are expected to reduce the threats to the Georgetown salamander, additional threats have not been addressed by their recent water quality ordinance. We, therefore, find that the Georgetown salamander warrants a threatened species listing status determination. Elsewhere in today's **Federal Register**, we propose special regulations for the Georgetown salamander under section 4(d) of the Act. We invite public comment on that proposed special rule.

There is a limited amount of data on the current status of most Georgetown salamander populations and how these populations respond to stressors. Of the 17 known Georgetown salamander populations, only 3 have been regularly monitored since 2008, and we only have population estimates for 2 of those sites. In addition, no studies have used controlled experiments to understand how environmental changes might affect Georgetown salamander individuals. To deal with this uncertainty and evaluate threats to the Georgetown salamander that are occurring now or in the future, we used information on substitute species, which is an accepted practice in aquatic ecotoxicology and conservation biology (Caro *et al.* 2005, p. 1,823; Wenger 2008, p. 1,565). In instances where information was not available for the Georgetown salamander specifically, we have provided references for studies conducted on similarly related species, such as the Jollyville Plateau salamander and Barton Springs salamander, which occur within the central Texas area, and other salamander species that occur in other parts of the United States. We concluded that these were appropriate comparisons to make based on the following similarities between the species: (1) A clear systematic (evolutionary) relationship (for example, members of the Family Plethodontidae); (2) shared life-history attributes (for example, the lack of metamorphosis into a terrestrial form); (3) similar morphology and physiology (for example, the lack of lungs for respiration and sensitivity to environmental conditions); and (4) similar habitat and ecological requirements (for example, dependence on aquatic habitat in or near springs with a rocky or gravel substrate).

Present and future degradation of habitat (Factor A) is the primary threat to the Georgetown salamander. This threat primarily occurs in the form of reduced water quality from introduced and concentrated contaminants, increased sedimentation, and altered stream flow regimes. Reduced water quality from increased conductivity, PAHs, pesticides, and nutrients have all been shown to have detrimental impacts on salamander density, growth, and behavior (Marco *et al.* 1999, p. 2,837; Albers 2003, p. 352; Rohr *et al.* 2003, p. 2,391; Bowles *et al.* 2006, pp. 117–118; O'Donnell *et al.* 2006, p. 37; Reylea 2009, p. 370; Sparling *et al.* 2009, p. 28; Bommarito *et al.* 2010, pp. 1,151–1,152). Sedimentation causes the amount of available foraging habitat and protective cover for salamanders to be reduced (Welsh and Ollivier 1998, p. 1,128), reducing salamander abundance (Turner 2003, p. 24; O'Donnell *et al.* 2006, p. 34). Sharp declines and increases in stream flow have also been shown to reduce salamander abundance (Petranka and Sih 1986, p. 732; Sih *et al.* 1992, p. 1,429; Baumgartner *et al.* 1999, p. 36; Miller *et al.* 2007, pp. 82–83; Price *et al.* 2012b, p. 319). In the absence of species-specific information, we conclude that Georgetown salamanders respond negatively to these stressors because aquatic invertebrates (the prey base of the Georgetown salamander) and several species of closely related stream salamanders have demonstrated direct and indirect negative responses to these stressors.

Reduced water quality, increased sedimentation, and altered flow regimes are primarily the result of human population growth and subsequent urbanization within the watersheds and recharge and contributing zones of the groundwater supporting spring and cave sites. Urbanization in the range of the Georgetown salamander is currently at relatively low levels. However, based on our current knowledge of the Georgetown salamander and observations made on the impacts of urbanization on other closely related species of aquatic salamanders, urbanization at current levels is likely affecting both surface and subsurface habitat. Based on our analysis of impervious cover (which we use as a proxy for urbanization) throughout the range of the Georgetown salamander, 10 of 12 surface watersheds known to be occupied by Georgetown salamanders in 2006 had levels of impervious cover that are likely causing habitat degradation now. Although we do not have long-term survey data on Georgetown salamander populations, the best available information indicates that habitat degradation from urbanization is causing declines in Georgetown salamander populations throughout most of the species' range now or will cause population declines in the future, putting these populations at an elevated risk of extirpation.

Further degradation of the Georgetown salamander's habitat is likely to continue into the foreseeable future based on the current projected increases in urbanization in the region. Substantial human population growth is ongoing within this species' range, indicating that the urbanization and its effects on Georgetown salamander habitat will likely increase in the future. The human population within the range of the Georgetown salamander is expected to increase by 375 percent from the year 2000 to 2033 (City of Georgetown 2008, p. 3.5).

Hazardous materials that could be spilled or leaked resulting in the contamination of both surface and groundwater resources add to the additional threats affecting the Georgetown salamander. For example, a number of point-sources of pollutants exist within the Georgetown salamander's range, including fuel tankers, fuel storage tanks, wastewater lines, and chlorinated drinking water lines, and some of these sources have contaminated groundwater in the past (Mace *et al.* 1997, p. 32; City of Georgetown 2008, p. 3.37; McHenry *et al.* 2011, p. 1). It is unknown what effect these past spills have had on Georgetown salamander populations thus far. As development around Georgetown increases, the number of point-sources will increase within the range of the Georgetown salamander, subsequently increasing the likelihood of a hazardous materials spill or leak. However, the City of Georgetown's ordinance to protect water quality will help reduce the risk of a significant hazardous materials spill impacting surface stream drainages of the Georgetown salamander by requiring roadways that have a capacity of 25,000 vehicles per day to provide for spill containment as described in the TCEQ's Optional Enhanced Measures.

In addition, construction activities resulting from urban development or rock quarry mining activities may negatively impact both water quality and quantity because they can increase sedimentation and dewater springs by intercepting aquifer conduits. There are currently five Georgetown salamander sites that are located within 1 mile (1.6 km) of active rock quarries within Williamson County, Texas, which may impact the species and its habitat, and which could result in the destruction of spring sites, collapse of karst caverns, degradation of water quality, and reduction of water quantity (Ekmekci 1990, p. 4). In 2004, elevated levels of perchlorate (a chemical used in producing quarry explosives) were detected in multiple springs within Williamson County, indicating that quarry activities were having an impact on local water quality (Berehe 2005, p. 44). At this time, we are not aware of any studies that have examined sediment loading due to construction activities within the watersheds of Georgetown salamander habitat. While the City of Georgetown's new water quality ordinance will reduce construction-related sediment loading, it will not remove all such loading, and given that construction-related sediment loading has been shown to impact other salamander species (Turner 2003, p. 24; O'Donnell *et al.* 2006, p. 34), sediment loading is likely to occur within the rapidly developing range of the Georgetown salamander. Thus, we expect that effects from construction activities will increase as urbanization increases within the range of the Georgetown salamander.

The habitat of Georgetown salamanders is sensitive to direct physical habitat modification, such as those resulting from human recreational activities, impoundments, feral hogs, and livestock. Present disturbance of Georgetown salamander habitat has been attributed to direct human modification of spring outlets (TPWD 2011a, p. 9), feral hog activity (Booker 2011, pers. comm.), and livestock activity (White 2011, SWCA, pers. comm.).

The effects of present and future climate change could also affect water quantity and spring flow for the Georgetown salamander. Climate change could compound the threat of decreased water quantity at salamander spring sites by decreasing precipitation, increasing evaporation, increasing groundwater pumping demands, and increasing the likelihood of extreme drought events. Climate change could cause spring sites with small amounts of discharge to go dry and no longer support salamanders, reducing the overall redundancy and representation for the species. For example, at least two Georgetown salamander sites (Cobb and San Gabriel Springs) are known to lose surface flow for periods of time (Booker 2011, p. 1; Breen and Faucette 2013, p. 1). Climate change is causing extreme droughts to become much more probable than they were 40 to 50 years ago (Rupp *et al.* 2012, pp. 1,053–1,054). Therefore, climate change is an ongoing threat to this species that could add to the likelihood of the Georgetown salamander becoming an endangered species within the foreseeable future.

Although there are several regulations in place (Factor D) that benefit the Georgetown salamander, none have proven adequate to protect this species' habitat from degradation. Data indicate that some water quality degradation in the range of the Georgetown salamander has occurred and continues to occur despite relatively low impervious cover and the existence of state and local regulatory mechanisms in place to protect water quality (SWCA 2012, pp. 11–20; TCEQ 2012b, pp. 646–736). In addition, Williamson County does not currently have a groundwater conservation district that can manage groundwater resources countywide and prevent groundwater levels from declining from private pumping. Existing regulations have not prevented the disturbance of surface habitat that has occurred at several sites. The City of Georgetown's Edwards Aquifer Recharge Zone Water Quality Ordinance, Water Quality Management Plan, and Adaptive Management Plan, approved in December 2013, will help to reduce some of the threats from water quality degradation and direct impacts to surface habitat that are typically associated with urbanized areas. However, these mechanisms are not adequate to protect this species and its habitat now, nor do we anticipate them to sufficiently protect this species and its habitat in the future.

Other natural or manmade factors (Factor E) affecting all Georgetown salamander populations include UV–B radiation, small population sizes, stochastic events (such as floods or droughts), and synergistic and additive interactions among the stressors mentioned above. For example, the only mark-recapture studies on the Georgetown salamander estimated surface population sizes of 100 to 200 adult salamanders at 2 sites thought to be of the highest quality for this species (Twin Springs and Swinbank Springs, Pierce 2011a, p. 18). Georgetown salamander populations are likely smaller at other, lower quality sites. In fact, this species has not been observed in more than 10 years at two locations (San Gabriel Spring and Buford Hollow Spring), despite several survey efforts to find it (Pierce 2011b, c, Southwestern University, pers. comm.). Factors such as small population size, especially in combination with the threats summarized above, make Georgetown salamander populations less resilient and more vulnerable to population extirpations in the foreseeable future.

Because of the fact-specific nature of listing determinations, there is no single metric for determining if a species is "in danger of extinction" now. In the case of the Georgetown salamander, the best available information indicates that habitat degradation will result in significant impacts on salamander

populations. The threat of urbanization indicates that most of the Georgetown salamander populations are currently at an elevated risk of extirpation, or will be at an elevated risk in the future. These impacts are expected to increase in severity and scope as urbanization within the range of the species increases. Also, the combined result of increased impacts to habitat quality and inadequate regulatory mechanisms leads us to the conclusion that Georgetown salamanders will likely be in danger of extinction within the foreseeable future. As Georgetown salamander populations become more degraded, isolated, or extirpated by urbanization, the species will lose resiliency and be at an elevated risk from climate change impacts, small population sizes, and catastrophic events, such as drought, floods, and hazardous material spills. These events will affect all known extant populations, putting the Georgetown salamander at a high risk of extinction. Therefore, because the resiliency of populations is expected to decrease in the foreseeable future, the Georgetown salamander will be in danger of extinction throughout all of its range in the foreseeable future, and appropriately meets the definition of a threatened species (that is, in danger of extinction in the foreseeable future).

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The threats to the survival of this species occur throughout its range and are not restricted to any particular significant portion of its range. Accordingly, our assessments and determinations apply to this species throughout its entire range.

In conclusion, as described above, the Georgetown salamander is subject to significant current and ongoing threats now and will be subject to more severe threats in the future. After a review of the best available scientific information as it relates to the status of the species and the five listing factors, we find the Georgetown salamander is not currently in danger of extinction, but will be in danger of extinction in the future. Therefore, on the basis of the best available scientific and commercial information, we list the Georgetown salamander as a threatened species in accordance with section 3(6) of the Act. We find that an endangered species status is not appropriate for the Georgetown salamander because the species is not in danger of extinction at this time. While some threats to the Georgetown salamander are occurring now, the impacts from these threats are not yet at a level that puts this species in danger of extinction now. However, with future urbanization and the added effects of climate change, we expect habitat degradation and Georgetown salamander count declines to continue into the future to the point where the species will then be in danger of extinction.

Listing Status Determination for the Salado Salamander

In the proposed rule (77 FR 50768, August 22, 2012), the Salado salamander species was proposed as endangered, rather than threatened, because at that time, we determined the threats to be imminent, and their potential impacts to the species would be catastrophic given the very limited range of the species. For this final determination, we took into account data that were made available after the proposed rule published, information provided by commenters on the proposed rule, and further discussions within the Service to determine whether the Salado salamander should be classified as endangered or threatened. Based on our review of the best available scientific and commercial information, we conclude that the Salado salamander is likely to become in danger of extinction in the foreseeable future throughout all of its range and, therefore, meets the definition of a threatened species. This finding, explained below, is based on our conclusions that few (seven) Salado salamander sites exist (some of these sites are close to each other and likely part of the same population), some populations have begun to experience impacts from threats to its habitat, and these threats are expected to increase in the future. As the threats increase, we expect Salado salamander populations to decline and be extirpated, reducing the overall representation and redundancy across the species range and increasing the species risk of extinction. We find the Salado salamander will be at an elevated risk of extinction in the future. We, therefore, find that the Salado salamander warrants a threatened species listing status determination.

There is a limited amount of data on Salado salamander populations and how these populations respond to stressors. There are no population estimates for any of the seven known Salado salamander populations, and salamanders are very rarely seen at four of the seven sites. In addition, no studies have used controlled experiments to understand how environmental changes might affect Salado salamander individuals. To deal with this uncertainty and evaluate threats to the Salado salamander that are occurring now or in the future, we used information on substitute species, which is an accepted practice in aquatic ecotoxicology and conservation biology (Caro *et al.* 2005, p. 1823; Wenger 2008, p. 1,565). In instances where information was not available for the Salado salamander specifically, we have provided references for studies conducted on similarly related species, such as the Jollyville Plateau salamander and Barton Springs salamander, which occur within the central Texas area, and other salamander species that occur in other parts of the United States. We concluded that these were appropriate comparisons to make based on the following similarities between the species: (1) a clear systematic (evolutionary) relationship (for example, members of the Family Plethodontidae); (2) shared life history attributes (for example, the lack of metamorphosis into a terrestrial form); (3) similar morphology and physiology (for example, the lack of lungs for respiration and sensitivity to environmental conditions); and (4) similar habitat and ecological requirements (for example, dependence on aquatic habitat in or near springs with a rocky or gravel substrate).

Present and future degradation of habitat (Factor A) is the primary threat to the Salado salamander. This threat primarily occurs in the form of reduced water quality from introduced and concentrated contaminants, increased sedimentation, and altered stream flow regimes. Reduced water quality from increased conductivity, PAHs, pesticides, and nutrients have all been shown to have detrimental impacts on salamander density, growth, and behavior (Marco *et al.* 1999, p. 2,837; Albers 2003, p. 352; Rohr *et al.* 2003, p. 2,391; Bowles *et al.* 2006, pp. 117–118; O'Donnell *et al.* 2006, p. 37; Reylea 2009, p. 370; Sparling *et al.* 2009, p. 28; Bommarito *et al.* 2010, pp. 1,151–1,152). Sedimentation causes the amount of available foraging habitat and protective cover for salamanders to be reduced (Welsh and Ollivier 1998, p. 1,128), reducing salamander abundance (Turner 2003, p. 24; O'Donnell *et al.* 2006, p. 34). Sharp declines and increases in stream flow have also been shown to reduce salamander abundance (Petranka and Sih 1986, p. 732; Sih *et al.* 1992, p. 1,429; Baumgartner *et al.* 1999, p. 36; Miller *et al.* 2007, pp. 82–83; Price *et al.* 2012b, p. 319). In the absence of species-specific information, we conclude that Salado salamanders respond negatively to these stressors

because aquatic invertebrates (the prey base of the Salado salamander) and several species of closely related stream salamanders have demonstrated direct and indirect negative responses to these stressors.

Reduced water quality, increased sedimentation, and altered flow regimes are primarily the result of human population growth and subsequent urbanization within the watersheds and recharge and contributing zones of the groundwater supporting spring and cave sites. Urbanization in the range of the Salado salamander is currently at relatively low levels. However, based on our current knowledge of the Salado salamander and observations made on the impacts of urbanization on other closely related species of aquatic salamanders, urbanization is likely affecting both surface and subsurface habitat and is likely having impacts on Salado salamander populations. Based on our analysis of impervious cover (which we use as a proxy for urbanization) throughout the range of the Salado salamander, five of the six surface watersheds occupied by Salado salamanders had levels of impervious cover in 2006 that are likely causing habitat degradation. Although we do not have long-term survey data on Salado salamander populations, recent surveys have indicated that Salado salamanders are exceedingly rare at the three most impacted sites (no salamanders were found during surveys conducted in 2012; Hibbitts 2013, p. 2) and more abundant at the three least impacted sites (Gluesenkamp 2011a, b, TPWD, pers. comm.). The best available information indicates that habitat degradation from urbanization or physical disturbance is causing declines in Salado salamander populations throughout most of the species' range now, or will cause population declines in the future, putting these populations at an elevated risk of extirpation.

Further degradation of the Salado salamander's habitat is expected to continue into the future, primarily as a result of an increase in urbanization. Substantial human population growth is ongoing within this species' range, indicating that the urbanization and its effects on Salado salamander habitat will increase in the future. The Texas State Data Center (2012, p. 353) has reported a population increase of 128 percent for Bell County, Texas, from the year 2010 to 2050. Because subsurface flow into some Salado salamander sites may originate in Williamson County to the southwest, human population growth in Williamson County also could have increasing negative impacts on Salado salamander habitat. The Texas State Data Center estimates a 377 percent increase in human population in Williamson County from 2010 to 2050.

Adding to the likelihood of the Salado salamander becoming endangered in the future is the risk from hazardous materials that could be spilled or leaked, potentially resulting in the contamination of both surface and groundwater resources. Three of the seven Salado salamander sites are located less than 0.25 mi (0.40 km) downstream of Interstate Highway 35 and may be particularly vulnerable to spills due to their proximity to this major transportation corridor. Should a hazardous materials spill occur at the Interstate Highway 35 bridge that crosses at Salado Creek, this species could be at risk from contaminants entering the water flowing into its surface habitat downstream. In addition, multiple petroleum leaks from underground storage tanks have occurred near Salado salamander sites in the past (Price *et al.* 1999, p. 10). Because no follow-up studies were conducted, we have no information to indicate what effect these spills had on the species or its habitat. A significant hazardous materials spill within stream drainages of the Salado salamander has the potential to threaten the long-term survival and sustainability of multiple populations, and we expect the risk of spills will increase in the future as urbanization increases.

In addition, construction activities resulting from urban development or rock quarry mining activities may negatively impact both water quality and quantity because they can increase sedimentation and dewater springs by intercepting aquifer conduits. There is currently an active rock quarry located within 1.25 mi (2.0 km) of three Salado salamander sites within Bell County, Texas, which may impact the species and its habitat, and which could result in the collapse of karst caverns, degradation of water quality, and reduction of water quantity (Ekmekci 1990, p. 4). At this time, we are not aware of any studies that have examined sediment loading due to construction activities within the watersheds of Salado salamander habitat. However, given that construction-related sediment loading has been shown to impact other salamander species (Turner 2003, p. 24; O'Donnell *et al.* 2006, p. 34) and is likely to occur within the developing range of the Salado salamander, we expect that effects from construction activities will increase as urbanization increases within the range of the Salado salamander.

The habitat of Salado salamanders is sensitive to direct physical habitat modification, such as those resulting from human recreational activities, impoundments, feral hogs, and livestock. Destruction of Salado salamander habitat has been attributed to direct human modification, including heavy machinery use, outflow channel reconstruction, substrate alteration, and impoundments (Service 2010, p. 6; Gluesenkamp 2011a, c, pers. comm.). One of the seven Salado salamander sites is unfenced and vulnerable to access and damage from livestock and feral hogs.

The effects of present and future climate change could also affect water quantity and spring flow for the Salado salamander. Climate change will likely compound the threat of decreased water quantity at salamander spring sites by decreasing precipitation, increasing evaporation, increasing groundwater pumping demands, and increasing the likelihood of extreme drought events. Climate change could cause spring sites with small amounts of discharge to go dry and no longer support salamanders, reducing the overall redundancy and representation for the species. For example, at least two Salado salamander sites (Robertson Spring and Lil' Bubbly Spring) are known to lose surface flow for periods of time (Gluesenkamp 2011a, pers. comm.; Breen and Faucette 2013, p. 1). Climate change is currently causing extreme droughts to become much more probable than they were 40 to 50 years ago (Rupp *et al.* 2012, pp. 1,053–1,054). Therefore, climate change is an ongoing threat to this species and will add to the likelihood of the Salado salamander becoming an endangered species within the foreseeable future.

Although there are several regulations in place (Factor D) that benefit the Salado salamander, none have proven adequate to protect this species' habitat from degradation. Data indicate that some water quality degradation in the range of the Salado salamander has occurred and continues to occur despite relatively low impervious cover and the existence of state and local regulatory mechanisms in place to protect water quality (TCEQ 2012b, pp. 646–736). In addition, although Bell County does have a groundwater conservation district that can manage groundwater resources countywide, this management has not prevented Salado salamander spring sites from going dry during droughts (TPWD 2011a, p. 5; Aaron 2013, CUWCD, pers. comm.; Breen and Faucette 2013, pers. comm.). Finally, no regulations have prevented the disturbance of the physical surface habitat that has occurred at three sites

within the Village of Salado. Therefore, the existing regulatory mechanisms are not adequate to protect this species and its habitat now, nor do we anticipate them to sufficiently protect this species in the future.

Other natural or manmade factors (Factor E) affecting all Salado salamander populations include UV–B radiation, small population sizes, stochastic events (such as floods or droughts), and synergistic and additive interactions among the stressors mentioned above. Because of how rare Salado salamanders are at most sites (Gluesenkamp 2011a, b, TPWD, pers. comm.; TPWD 2011a, pp. 1–3), we assume that population sizes are very small. Factors such as small population size, in combination with the threats summarized above, make Salado salamander populations less resilient and more vulnerable to population extirpations in the foreseeable future.

Because of the fact-specific nature of listing determinations, there is no single metric for determining if a species is "in danger of extinction" now. In the case of the Salado salamander, the best available information indicates that habitat degradation will result in significant impacts on salamander populations. The threat of urbanization indicates that most of the Salado salamander populations are currently at an elevated risk of extirpation, or will be at an elevated risk in the future. These impacts are expected to increase in severity and scope as urbanization within the range of the species increases. Also, the combined result of increased impacts to habitat quality and inadequate regulatory mechanisms leads us to the conclusion that Salado salamanders will likely be in danger of extinction within the foreseeable future. As Salado salamander populations become more degraded, isolated, or extirpated by urbanization, the species will lose resiliency and be at an elevated risk from climate change impacts, small population sizes, and catastrophic events (for example, drought, floods, hazardous material spills). These events will affect all known extant populations, putting the Salado salamander at a high risk of extinction. Therefore, because the resiliency of populations is expected to decrease in the foreseeable future, the Salado salamander will be danger of extinction throughout all of its range in the future, and it appropriately meets the definition of a threatened species (that is, in danger of extinction in the foreseeable future).

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The threats to the survival of this species occur throughout its range and are not restricted to any particular significant portion of its range. Accordingly, our assessments and determinations apply to this species throughout its entire range.

In conclusion, the Salado salamander is subject to significant current and ongoing threats now and will be subject to more severe threats in the future. After a review of the best available scientific information as it relates to the status of the species and the five listing factors, we find the Salado salamander is not in danger of extinction now, but will be in danger of extinction in the foreseeable future. Therefore, on the basis of the best available scientific and commercial information, we list the Salado salamander as a threatened species, in accordance with section 3(6) of the Act. We find that an endangered species status is not appropriate for the Salado salamander because the species is not in danger of extinction now. While some threats to the Salado salamander are occurring now, the impacts from these threats are not yet at a level that puts this species in danger of extinction at this time. However, with future urbanization and the added effects of climate change, we expect habitat degradation and Salado salamander count declines to continue into the foreseeable future to the point where the species will then be in danger of extinction.

Available Conservation Measures

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, tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the states and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the decline in the species' status 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 and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or 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, non-governmental 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 Austin 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, tribes, non-governmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (for example, restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, state, tribal, and other lands.

Once these species are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, state programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the

Act, the State of Texas will be eligible for Federal funds to implement management actions that promote the protection or recovery of the Georgetown and Salado salamanders. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

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 management, construction, and any other activities with the possibility of altering aquatic habitats, groundwater flow paths, and natural flow regimes within the ranges of the Georgetown and Salado salamanders. Such consultations could be triggered through the issuance of section 404 Clean Water Act permits by the Army Corps of Engineers or other actions by the Service, U.S. Geological Survey, and Bureau of Reclamation; construction and maintenance of roads or highways by the Federal Highway Administration; landscape-altering activities on Federal lands administered by the Department of Defense; and construction and management of gas pipelines and power line rights-of-way by the Federal Energy Regulatory Commission.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.21 for endangered wildlife, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. Under the Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378), it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and state conservation agencies.

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 wildlife, and at 50 CFR 17.32 for threatened wildlife. 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.

Required Determinations

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. 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

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

References Cited

A complete list of all references cited in this rule is available on the Internet at *http://www.regulations.gov* or upon request from the Field Supervisor, Austin Ecological Services Field Office (see **ADDRESSES**).

Author(s)

The primary author of this document is staff from the Austin Ecological Services Field Office (see **ADDRESSES**) with support from 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 follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for "Salamander, Georgetown" and "Salamander, Salado" in alphabetical order under Amphibians to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Amphibians							
*	*	*	*	*	*	*	
Salamander, Georgetown	*Eurycea naufragia*	U.S.A. (TX)	Entire	T		NA	NA
*	*	*	*	*	*	*	
Salamander, Salado	*Eurycea chisholmensis*	U.S.A. (TX)	Entire	T		NA	NA
*	*	*	*	*	*	*	

* * * * *

Dated: February 14, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–03717 Filed 2–21–14; 8:45 am]

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Part III

Department of the Treasury
Internal Revenue Service

26 CFR Part 54

Department of Labor
Employee Benefits Security Administration

29 CFR Part 2590

Department of Health and Human Services

45 CFR Parts 144, 146, and 147

Ninety-Day Waiting Period Limitation and Technical Amendments to Certain Health Coverage Requirements Under the Affordable Care Act; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[T.D. 9656]

RIN 1545–BL50

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AB56

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 144, 146, and 147

[CMS–9952–F]

RIN 0938–AR77

Ninety-Day Waiting Period Limitation and Technical Amendments to Certain Health Coverage Requirements Under the Affordable Care Act

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: These final regulations implement the 90-day waiting period limitation under section 2708 of the Public Health Service Act, as added by the Patient Protection and Affordable Care Act (Affordable Care Act), as amended, and incorporated into the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code. These regulations also finalize amendments to existing regulations to conform to Affordable Care Act provisions. Specifically, these rules amend regulations implementing existing provisions such as some of the portability provisions added by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) because those provisions of the HIPAA regulations have become superseded or require amendment as a result of the market reform protections added by the Affordable Care Act.

DATES: *Effective date.* These final regulations are effective on April 25, 2014.

Applicability date. The 90-day waiting period limitation provisions of these final regulations apply to group health plans and group health insurance issuers for plan years beginning on or after January 1, 2015. The amendments made by these final regulations to the evidence of creditable coverage provisions of 26 CFR 54.9801–5, 29 CFR 2590.701–5, and 45 CFR 146.115 apply beginning December 31, 2014. All other amendments made by these final regulations apply to group health plans and health insurance issuers for plan years beginning on or after April 25, 2014. Until the amendments to the existing HIPAA final regulations become applicable, plans and issuers must continue to comply with the existing regulations, as applicable.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Elizabeth Schumacher, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 317–6846; or Cam Moultrie Clemmons, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at (410) 786–1565.

Customer service information: Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS) Web site (*www.cciio.cms.gov/*) and information on health reform can be found at *www.HealthCare.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111–152, was enacted on March 30, 2010. (They are collectively known as the "Affordable Care Act".) The Affordable Care Act reorganizes, amends, and adds to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. The term "group health plan" includes both insured and self-insured group health plans.[1] The Affordable Care Act adds section 715(a)(1) to the Employee Retirement Income Security Act (ERISA) and section 9815(a)(1) to the Internal Revenue Code (the Code) to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, and to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The PHS Act sections incorporated by these references are sections 2701 through 2728.

PHS Act section 2708, as added by the Affordable Care Act and incorporated into ERISA and the Code, provides that a group health plan or health insurance issuer offering group health insurance coverage shall not apply any waiting period (as defined in PHS Act section 2704(b)(4)) that exceeds 90 days. PHS Act section 2704(b)(4), ERISA section 701(b)(4), and Code section 9801(b)(4) define a waiting period to be the period that must pass with respect to an individual before the individual is eligible to be covered for benefits under the terms of the plan. In 2004 regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) portability provisions (2004 HIPAA regulations), the Departments of Labor, Health and Human Services (HHS), and the Treasury (collectively, the Departments)[2] defined a waiting period to mean the period that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective.[3] PHS Act section 2708 does not require an employer to offer coverage to any particular individual or class of individuals, including part-time employees. PHS Act section 2708 merely prevents an otherwise eligible employee (or dependent) from being required to wait more than 90 days before coverage becomes effective. PHS Act section 2708 applies to both grandfathered and non-grandfathered group health plans and group health insurance coverage for plan years beginning on or after January 1, 2014.

On February 9, 2012, the Departments issued guidance[4] outlining various approaches under consideration with respect to both the 90-day waiting period limitation and the employer shared responsibility provisions under

[1] The term "group health plan" is used in title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, and is distinct from the term "health plan," as used in other provisions of title I of the Affordable Care Act. The term "health plan" does not include self-insured group health plans.

[2] Note, however, that in the Economic Analysis and Paperwork Burden section of this preamble, in sections under headings listing only two of the three Departments, the term "Departments" generally refers only to the two Departments listed in the heading.

[3] 26 CFR 54.9801–3(a)(3)(iii), 29 CFR 2590.701–3(a)(3)(iii), and 45 CFR 146.111(a)(3)(iii).

[4] Department of Labor Technical Release 2012–01, IRS Notice 2012–17, and HHS FAQs issued February 9, 2012.

Code section 4980H (February 2012 guidance) and requested public comment. On August 31, 2012, following their review of the comments on the February 2012 guidance, the Departments provided temporary guidance,[5] to remain in effect at least through the end of 2014, regarding the 90-day waiting period limitation, and described the approach they intended to propose in future rulemaking (August 2012 guidance). After consideration of all of the comments received in response to the February 2012 guidance and August 2012 guidance, the Departments issued proposed regulations on March 21, 2013 (78 FR 17313).

Under the proposed regulations, a group health plan and a health insurance issuer offering group health insurance coverage may not apply any waiting period that exceeds 90 days. The regulations proposed to define "waiting period" as the period that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective. Being otherwise eligible to enroll in a plan means having met the plan's substantive eligibility conditions (such as being in an eligible job classification or achieving job-related licensure requirements specified in the plan's terms). Eligibility conditions that are based solely on the lapse of a time period would be permissible for no more than 90 days. Other conditions for eligibility under the terms of a group health plan (that is, those that are not based solely on the lapse of a time period) are generally permissible under PHS Act section 2708 and the proposed regulations unless the condition is designed to avoid compliance with the 90-day waiting period limitation.

Among other things, the proposed regulations addressed application of waiting periods to certain plan eligibility conditions. The proposed regulations provided that if a group health plan conditions eligibility on an employee regularly having a specified number of hours of service per period (or working full-time), and it cannot be determined that a newly-hired employee is reasonably expected to regularly work that number of hours per period (or work full-time), the plan may take a reasonable period of time to determine whether the employee meets the plan's eligibility condition, which may include a measurement period[6] of no more than 12 months that begins on any date between the employee's start date and the first day of the first calendar month following the employee's start date if coverage is made effective no later than 13 months from the employee's start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month, and no waiting period that exceeds 90 days is imposed in addition to the measurement period.

The proposed regulations also addressed cumulative hours-of-service requirements, which use more than solely the passage of a time period in determining whether employees are eligible for coverage. Under the proposed regulations, if a group health plan or group health insurance issuer conditions eligibility on the completion by an employee (part-time or full-time) of a number of cumulative hours of service, the eligibility condition is not considered to be designed to avoid compliance with the 90-day waiting period limitation if the cumulative hours-of-service requirement does not exceed 1,200 hours.[7] Under the proposed regulations, the plan's waiting period must begin once the new employee satisfies the plan's cumulative hours-of-service requirement and may not exceed 90 days. The preamble to the proposed regulations stated that this provision is designed to be a one-time eligibility requirement only and that the proposed regulations do not permit, for example, re-application of such a requirement to the same individual each year.[8] The preamble to the proposed regulations also provided that the Departments would consider compliance with these proposed regulations to constitute compliance with PHS Act section 2708 at least through the end of 2014.[9]

The proposed regulations also included proposed amendments to conform to Affordable Care Act provisions already in effect as well as those that would become effective in 2014. The regulations proposed amending the 2004 HIPAA regulations implementing Code section 9801, ERISA section 701, and PHS Act section 2701 (as originally added by HIPAA), to remove provisions superseded by the prohibition on preexisting conditions under PHS Act section 2704, added by the Affordable Care Act.[10] Additionally, the regulations proposed to amend examples and provisions in 26 CFR Part 54, 29 CFR Part 2590, and 45 CFR Parts 144 and 146 to conform to other changes made by the Affordable Care Act, such as the elimination of lifetime and annual limits under PHS Act section 2711 and its implementing regulations,[11] as well as the provisions governing dependent coverage of children to age 26 under PHS Act section 2714 and its implementing regulations.[12]

After consideration of the comments and feedback received from stakeholders, the Departments are publishing these final regulations.

II. Overview of the Final Regulations

A. Prohibition on Waiting Periods That Exceed 90 Days

These final regulations provide that a group health plan, and a health insurance issuer offering group health insurance coverage, may not apply a waiting period that exceeds 90 days. (Nothing in these final regulations requires a plan or issuer to have any waiting period, or prevents a plan or issuer from having a waiting period that is shorter than 90 days.) If, under the terms of the plan, an individual[13] can elect coverage that becomes effective on a date that does not exceed 90 days, the coverage complies with the 90-day

[5] Department of Labor Technical Release 2012–02, IRS Notice 2012–59, and HHS FAQs issued August 31, 2012.

[6] *See* 26 CFR 54.4980H–3(d)(3)(i), at 79 FR 8544 (February 12, 2014).

[7] *See* section 4980H of the Code and its implementing regulations for an applicable large employer's shared responsibility to provide health coverage to full-time employees.

[8] 78 FR 17313, 17316 (March 21, 2013). *See also* Code section 36B and its implementing regulations, and *www.healthcare.gov* for information on an individual's eligibility for premium tax credits in the Affordable Insurance Exchange or "Exchange" (also referred to as Health Insurance Marketplace or "Marketplace") generally, as well as during a waiting period for coverage under a group health plan.

[9] The preamble to the proposed regulations stated that the proposed regulations are consistent with, and no more restrictive on employers than, the August 2012 guidance. *See* 78 FR 17313, 17317 (March 21, 2013). The August 2012 guidance similarly provided that group health plans and group health insurance issuers may rely on the compliance guidance through at least the end of 2014. *See* Department of Labor Technical Release 2012–02, IRS Notice 2012–59, and HHS FAQs issued August 31, 2012.

[10] Affordable Care Act section 1201 also moved those provisions from PHS Act section 2701 to PHS Act section 2704. See also 75 FR 37188 (June 28, 2010).

[11] 75 FR 37188 (June 28, 2010).

[12] 75 FR 27122 (May 13, 2010).

[13] The proposed regulations used several different terms when referencing individuals, such as employees and dependents, and participants and beneficiaries. Where it is appropriate, the final regulations replace these references with the term "individual" for consistency purposes. This is merely a change to eliminate any confusion that may occur as a result of using multiple terms interchangeably and does not change the substance of the rules as PHS Act section 2708 limits applying a waiting period that exceeds 90 days to any individual who is otherwise eligible to enroll under the terms of the plan.

waiting period limitation, and the plan or issuer will not be considered to violate the waiting period rules merely because individuals may take additional time (beyond the end of the 90-day waiting period) to elect coverage.

These final regulations continue to define "waiting period" as the period that must pass before coverage for an individual who is otherwise eligible to enroll under the terms of a group health plan can become effective. These final regulations also continue to include the clarification that, if an individual enrolls as a late enrollee or special enrollee, any period before the late or special enrollment is not a waiting period. The effective date of coverage for special enrollees continues to be that set forth in the Departments' 2004 HIPAA regulations governing special enrollment [14] (and, if applicable, in HHS regulations addressing guaranteed availability).[15]

The final regulations set forth rules governing the relationship between a plan's eligibility criteria and the 90-day waiting period limitation. Specifically, these final regulations provide that being otherwise eligible to enroll in a plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period). The 90-day waiting period limitation generally does not require the plan sponsor to offer coverage to any particular individual or class of individuals (including, for example, part-time employees). Instead, these final regulations prohibit requiring otherwise eligible individuals to wait more than 90 days before coverage becomes effective.[16]

Under these final regulations, eligibility conditions that are based solely on the lapse of a time period are permissible for no more than 90 days. Other conditions for eligibility under the terms of a group health plan (that is, those that are not based solely on the lapse of a time period) are generally permissible under PHS Act section 2708 and these final regulations, unless the condition is designed to avoid compliance with the 90-day waiting period limitation.

The proposed regulations included an approach when applying waiting periods to variable-hour employees in cases in which a specified number of hours of service per period is a plan eligibility condition. In general, the proposed regulations provided that, except for cases in which a waiting period that exceeds 90 days is imposed in addition to a measurement period, the time period for determining whether a variable-hour employee meets the plan's hours of service per period eligibility condition will not be considered to be designed to avoid compliance with the 90-day waiting period limitation if coverage is made effective no later than 13 months from the employee's start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month.

Some commenters requested a rule permitting plans to impose a 90-day waiting period in addition to the 12-month measurement period, arguing that restricting the period to 13 months plus the time remaining until the first day of the next calendar month would in effect be a one month waiting period and impose administrative hardship. Other commenters requested that the final regulations eliminate the allowance of a measurement period and require coverage to begin no later than 90 days from the employee's start date. These final regulations retain the approach in the proposed regulations and provide that if a group health plan conditions eligibility on an employee regularly having a specified number of hours of service per period (or working full-time), and it cannot be determined that a newly-hired employee is reasonably expected to regularly work that number of hours per period (or work full-time), the plan may take a reasonable period of time, not to exceed 12 months and beginning on any date between the employee's start date and the first day of the first calendar month following the employee's start date, to determine whether the employee meets the plan's eligibility condition, which may include a measurement period of no more than 12 months that begins on any date between the employee's start date and the first day of the first calendar month following the employee's start date. (This is consistent with the timeframe permitted for such determinations under Code section 4980H and its implementing regulations.) Except in cases in which a waiting period that exceeds 90 days is imposed in addition to a measurement period, the time period for determining whether a variable-hour employee meets the plan's hours of service per period eligibility condition will not be considered to be designed to avoid compliance with the 90-day waiting period limitation if coverage is made effective no later than 13 months from the employee's start date, plus if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month.

The proposed regulations also addressed cumulative hours-of-service requirements, which use more than solely the passage of a time period in determining whether employees are eligible for coverage. These final regulations retain the provisions of the proposed regulations, described earlier in this preamble, without change. Therefore, under these final regulations, if a group health plan or group health insurance issuer conditions eligibility on the completion by an employee (part-time or full-time) of a number of cumulative hours of service, the eligibility condition is not considered to be designed to avoid compliance with the 90-day waiting period limitation if the cumulative hours-of-service requirement does not exceed 1,200 hours. Under the final regulations, the plan's waiting period must begin on the first day after the employee satisfies the plan's cumulative hours-of-service requirement and may not exceed 90 days. Furthermore, this provision continues to be designed to be a one-time eligibility requirement only; these final regulations do not permit, for example, re-application of such a requirement to the same individual each year.

In response to the proposed regulations, commenters requested additional clarifications to allow plans and issuers to better coordinate the 90-day waiting period requirements with the rules under Code section 4980H, which, in the case of full-time employees of applicable large employers, generally requires as a condition for avoiding a penalty that health benefits begin by the first day of the fourth calendar month following the month in which the full-time employee begins employment. Commenters argued that, without coordination, the PHS Act section 2708 waiting period limitation could effectively require coverage to begin sooner than required under the rules implementing section 4980H of the Code and undermine the entire Code section 4980H framework, which Congress could not have intended. Other commenters argued that some employers might offer coverage to employees only because of their

[14] 26 CFR 54.9801–6, 29 CFR 2590.701–6, and 45 CFR 146.117.

[15] 45 CFR 147.104(b)(5).

[16] *See also* section 4980H of the Code and its implementing regulations for an applicable large employer's shared responsibility to provide health coverage to full-time employees (and their dependents).

obligations under Code section 4980H, so that an eligibility provision that makes an offer of coverage consistent with section 4980H should be permissible without requiring coverage to begin sooner than the regulations implementing section 4980H require.

Some commenters stated that their systems are not capable of beginning coverage other than at the beginning of a month, and it is thus common practice to have a 90-day waiting period with coverage effective the first day of the first month following a 90-day waiting period. These commenters requested the flexibility to continue this approach. Similarly, several commenters specifically requested that plans be permitted to impose a waiting period of three calendar months instead of 90 days, as it would be less confusing to participants and easier for plans and issuers to administer.

Under these final regulations, after an individual is determined to be otherwise eligible for coverage under the terms of the plan, any waiting period may not extend beyond 90 days, and all calendar days are counted beginning on the enrollment date, including weekends and holidays.[17] However, as noted above, the final regulations provide that a requirement to successfully complete a reasonable and bona fide employment-based orientation period may be imposed as a condition for eligibility for coverage under a plan. Specifically, the final regulations add an example of permissible substantive eligibility conditions under a group health plan. The proposed regulations had included being in an eligible job classification and achieving job-related licensure requirements specified in the plan's terms. The final regulations add a third example regarding the satisfaction of a reasonable and bona fide employment-based orientation period. The final regulations do not specify the circumstances under which the duration of an orientation period would not be considered "reasonable or bona fide." However, proposed regulations published elsewhere in this issue of the **Federal Register** propose one month as the maximum length of any orientation period meaning generally a period that begins on any day of a calendar month and is determined by adding one calendar month and then subtracting one calendar day).[18] Comments are invited on those proposed regulations and may be submitted as described in the proposed regulations. The Departments will consider compliance with those proposed regulations to constitute a reasonable and bona fide employment-based orientation period under PHS Act section 2708 at least through the end of 2014. To the extent final regulations or other guidance with respect to the application of the 90-day waiting period limitation to orientation periods is more restrictive on plans and issuers, the final regulations or other guidance will not be effective prior to January 1, 2015, and plans and issuers will be given a reasonable time period to comply.

In response to the proposed regulations, several commenters requested clarification regarding application of the rules to employees that are terminated from employment and then rehired by the same employer. Similarly, commenters requested clarification regarding application of the rules when an employee moves between a job classification that is or is not an eligible job classification for coverage under the plan.

After consideration of the comments, these final regulations provide that a former employee who is rehired may be treated as newly eligible for coverage upon rehire and, therefore, a plan or issuer may require that individual to meet the plan's eligibility criteria and to satisfy the plan's waiting period anew, if reasonable under the circumstances (for example, the termination and rehire cannot be a subterfuge to avoid compliance with the 90-day waiting period limitation). The same analysis would apply to an individual who moves to a job classification that is ineligible for coverage under the plan but then later moves back to an eligible job classification.

Many commenters raised administrative concerns relating to the application of the rules to multiemployer plans. In the preamble to the proposed regulations, the Departments recognized that multiemployer plans maintained pursuant to collective bargaining agreements have unique operating structures and may include different eligibility conditions based on the participating employer's industry or the employee's occupation. For example, some multiemployer plans determine eligibility based on complex formulas for earnings and residuals or use "hours banks" in which workers' excess hours from one measurement period are credited against any shortage of hours in a succeeding measurement period, functioning as buy-in provisions to prevent lapses in coverage. Some commenters on the proposed regulations pointed out that collectively bargained plans, owing to the nature of the bargaining process, often have detailed and coordinated eligibility provisions (some requiring aggregation of data from multiple contributing employers). Others stated that the unique operating structure of multiemployer plans often allows for continued coverage after an employee's employment terminates (or after an employee's hours are reduced) until the end of the quarter.

On September 4, 2013, the Departments issued a set of frequently asked questions (FAQs) stating that, "under the proposed rules, to the extent plans and issuers impose substantive eligibility requirements not based solely on the lapse of time, these eligibility provisions are permitted if they are not designed to avoid compliance with the 90-day waiting period limitation."[19] The FAQs further provide that, "[t]herefore, for example, if a multiemployer plan operating pursuant to an arms-length collective bargaining agreement has an eligibility provision that allows employees to become eligible for coverage by working hours of covered employment across multiple contributing employers (which often aggregates hours by calendar quarter and then permits coverage to extend for the next full calendar quarter, regardless of whether an employee has terminated employment), the Departments would consider that provision designed to accommodate a unique operating structure, (and, therefore, not designed to avoid compliance with the 90-day waiting period limitation)." These final regulations include an example consistent with this FAQ.

While the requirements of PHS Act section 2708 and these final regulations apply to both the plan and issuer offering coverage in connection with such plan, to the extent coverage under a group health plan is insured by a health insurance issuer, paragraph (f) of these regulations provides that the issuer can rely on the eligibility

[17] These final regulations also note that a plan or issuer that imposes a 90-day waiting period may, for administrative convenience, choose to permit coverage to become effective earlier than the 91st day if the 91st day is a weekend or holiday.

[18] The proposed regulations provide that if there is not a corresponding date in the next calendar month upon adding a calendar month, the last permitted day of the orientation period is the last day of the next calendar month. For example, if the employee's start date is January 30, the last permitted day of the orientation period is February 28 (or February 29 in a leap year). Similarly, if the employee's start date is August 31, the last permitted day of the orientation period is September 30.

[19] *See* FAQs about Affordable Care Act Implementation (Part XVI), Q2, available at *http://www.dol.gov/ebsa/faqs/faq-aca16.html* and *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs16.html*.

information reported to it by an employer (or other plan sponsor) and will not be considered to violate the requirements of these final regulations in administering the 90-day waiting period limitation if: (1) The issuer requires the plan sponsor to make a representation regarding the terms of any eligibility conditions or waiting periods imposed by the plan sponsor before an individual is eligible to become covered under the terms of the plan (and requires the plan sponsor to update this representation with any applicable changes); and (2) the issuer has no specific knowledge of the imposition of a waiting period that would exceed the permitted 90-day period.

Consistent with the statutory effective date of PHS Act section 2708, the Departments proposed that the 90-day waiting period limitation would become applicable for plan years beginning on or after January 1, 2014, for both grandfathered and non-grandfathered group health plans and health insurance issuers offering group health insurance coverage. As with the applicability of the 2004 HIPAA regulations, the proposed regulations stated that, with respect to individuals who are in a waiting period for coverage before the applicability date of the regulations, beginning on the first day these rules apply to the plan, any waiting period can no longer apply in a manner that exceeds 90 days from the beginning of the waiting period, even if the waiting period began before the first day the rules apply to the plan.

The August 2012 guidance provided that group health plans and health insurance issuers may rely on the compliance guidance through at least the end of 2014. The preamble to the proposed regulations stated that, in the Departments' view, the proposed regulations are consistent with, and no more restrictive on employers than, the August 2012 guidance, and that therefore, the Departments will consider compliance with the proposed regulations to constitute compliance with PHS Act section 2708 at least through the end of 2014. The 90-day waiting period provisions of these final regulations apply to group health plans and group health insurance issuers for plan years beginning on or after January 1, 2015. For plan years beginning in 2014, the Departments will consider compliance with either the proposed regulations or these final regulations to constitute compliance with PHS Act section 2708.[20]

[20] The Departments note that, with respect to individuals who are in a waiting period for coverage before the statutory effective date of PHS Act section 2708, beginning on the first day the statute applies to the plan, any waiting period can no longer apply in a manner that exceeds 90 days. This clarification was included in the proposed regulations, but has not been retained in the final regulations, because individuals will not be in a waiting period that exceeds 90 days by the applicability date of the final regulations.

B. Conforming Changes to Existing Regulations

The proposed regulations included proposed conforming amendments to the 2004 HIPAA regulations implementing Code section 9801, ERISA section 701, and PHS Act section 2701 (as originally added by HIPAA), to remove provisions superseded by the prohibition on preexisting conditions under PHS Act section 2704 (as added by the Affordable Care Act) and the implementing regulations, including elimination of the requirement to issue certificates of creditable coverage. The regulations proposed that these amendments would become applicable after issuance of the final regulations; however, the proposal to eliminate the requirement to issue certificates of creditable coverage was proposed to apply beginning December 31, 2014, so that individuals needing to offset a preexisting condition exclusion under a plan that will become subject to the prohibition on preexisting conditions starting with a plan year beginning on December 31, 2014 would still have access to the certificate for proof of coverage until that time. Commenters requested that the requirement to provide certificates of creditable coverage be eliminated beginning in 2014 because the certificates are no longer necessary. Commenters explained that the need for certificates after 2013 would be relatively rare and requested that plans and issuers be required to provide certificates in 2014 only upon request.

These final regulations adopt without substantive change the proposed conforming amendments. A minor clarification was added to the Example 7 of the rules regarding limitations on preexisting condition exclusion periods,[21] and Example 4 of the rules prohibiting discrimination against participants and beneficiaries based on a health factor,[22] to clarify that any reference to essential health benefit for purposes of the individual and small group markets is dependent upon the State essential health benefits benchmark plan as defined in HHS regulations at 45 CFR 156.20. Additionally, HHS is not finalizing the proposed amendments to 45 CFR 146.145(b) because the provision was stricken in previous rulemaking (78 FR at 65092, October 30, 2013).

The prohibition with respect to adults on preexisting condition exclusions applies for plan years (or, in the individual market, policy years) beginning on or after January 1, 2014. If a plan had a plan year beginning December 31, 2013, the plan could impose a preexisting condition exclusion, and an individual could need a certificate of creditable coverage, through December 30, 2014.

All other amendments made by these final regulations to the 2004 HIPAA regulations apply to group health plans and health insurance issuers for plan years beginning on or after April 25, 2014. Until the amendments to the existing HIPAA final regulations become applicable, plans and issuers must continue to comply with the existing regulations, to the extent consistent with amendments to the statute.

[21] 26 CFR 54.9801–3(a)(2) Example 8; 29 CFR 2590.701–3(a)(2) Example 8, and 45 CFR 146.111(a)(2) Example 8.

[22] 26 CFR 54.9802–1(b)(2)(i)(D) Example 4, 29 CFR 2590.702(b)(2)(i)(D) Example 4, and 45 CFR 146.121(b)(2)(i)(D) Example 4.

III. Economic Impact and Paperwork Burden

A. Executive Order 12866 and 13563—Department of Labor and Department of Health and Human Services

Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing and streamlining rules, and of promoting flexibility. It also requires federal agencies to develop a plan under which the agencies will periodically review their existing significant regulations to make the agencies' regulatory programs more effective or less burdensome in achieving their regulatory objectives.

Under Executive Order 12866, a regulatory action deemed "significant" is subject to the requirements of the Executive Order and review by the Office of Management and Budget (OMB). Section 3(f) of the Executive Order 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, 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 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.

These final regulations are not economically significant within the meaning of section 3(f)(1) of the Executive Order. However, OMB has determined that the actions are significant within the meaning of section 3(f)(4) of the Executive Order. Therefore, OMB has reviewed these final regulations, and the Departments [23] have provided the following assessment of their impact.

1. Summary

As stated earlier in this preamble, these final regulations implement PHS Act section 2708, which provides that a group health plan or health insurance issuer offering group health insurance coverage shall not apply any waiting period that exceeds 90 days. A waiting period is defined to mean the period that must pass before coverage for an individual who is otherwise eligible to enroll under the terms of a group health plan can become effective. The final regulations generally apply to group health plans and group health insurance issuers for plan years beginning on or after January 1, 2015.

The Departments have crafted these final regulations to secure the protections intended by Congress in an economically efficient manner. The Departments lack sufficient data to quantify the regulations' economic cost or benefits; therefore, the proposed regulations provided a qualitative discussion of their economic impacts and requested detailed comment and data that would allow for quantification of the costs, benefits, and transfers. While comments were received expressing concern about the cost to employers that currently have waiting periods longer than 90 days of having to change their practices and provide coverage sooner to comply with the 90-day waiting period limitation, no comments provided additional data that would help in estimating the economic impacts of the final regulations.

2. Estimated Number of Affected Entities

The Departments estimate that 4.1 million new employees receive group health insurance coverage through private sector employers and 1.0 million new employees receive group health insurance coverage through public sector employers annually.[24] The 2013 Kaiser Family Foundation and Health Research and Education Trust Employer Health Benefits Annual Survey (the "2013 Kaiser Survey") finds that only nine percent of covered workers were subject to waiting periods of four months or more.[25] If nine percent of new employees receiving health care coverage from their employers are subject to a waiting period of four months or more, then 459,000 new employees (5.1 million × 0.09) would potentially be affected by these regulations.[26] However, it is unlikely that the survey defines the term "waiting period" in the same manner as these final regulations. For example, waiting period may have been defined by reference to an employee's start date, and it seems unlikely that the 2013 Kaiser Survey would have included the clarifications included in these final regulations regarding the measurement period for variable-hour employees or the clarification regarding cumulative hours-of-service requirements.

3. Benefits

Before Congress enacted PHS Act section 2708, Federal law did not prescribe any limits on waiting periods for group health coverage.

If employees delay health care treatment until the expiration of a lengthy waiting period, detrimental health effects could result, especially for employees and their dependents requiring higher levels of health care, such as older Americans, pregnant women, young children, and those with chronic conditions. This could lead to lower work productivity and missed school days. Low-wage workers also are vulnerable, because they have less income to spend out-of-pocket to cover medical expenses. The Departments anticipate that these final regulations can help reduce these effects.

As discussed earlier in this preamble, these final regulations amend the 2004 HIPAA regulations implementing Code section 9801, ERISA section 701, and PHS Act section 2701 (as originally added by HIPAA) to remove provisions superseded by the prohibition on preexisting conditions under PHS Act section 2704, added by the Affordable Care Act. These amendments would provide a benefit to plans by reducing the burden associated with complying with the several Paperwork Reduction Act (PRA) information collections that are associated with the superseded regulations. For a discussion of the affected information collections and the estimated cost and burden hour reduction, please see the PRA section, later in this preamble.

4. Transfers

The possible transfers associated with these final regulations would arise if employers begin to pay their portion of premiums or contributions sooner than they otherwise would in the absence of PHS Act section 2708 and these final regulations. Recipients of the transfers would be covered employees and their dependents who would, after these final regulations become applicable, not be subject to excessive waiting periods during which they must forgo health coverage, purchase COBRA continuation coverage, or obtain an individual health insurance policy—all of which are options that could lead to higher out-of-pocket costs for employees to cover their healthcare expenditures. As discussed above, Federal law did not limit the duration of waiting periods in the group market before the enactment of PHS Act section 2708.

The Departments do not believe that these final regulations, on their own, will cause more than a marginal number of employers to offer coverage earlier to their employees. That is because a relatively small fraction of workers have waiting periods that exceed four months and these final regulations afford employers flexibility to maintain or revise their current group health plan eligibility conditions. For example, as described earlier, if a group health plan or group health insurance issuer conditions eligibility on the completion by an employee (part-time or full-time) of a number of cumulative hours of service, the eligibility condition is not considered to be designed to avoid compliance with the 90-day waiting period limitation if the cumulative hours-of-service requirement does not exceed 1,200 hours. Additionally, the final regulations allow for a reasonable and bona fide employment-based orientation period to be imposed as a condition for eligibility for coverage under a plan. These provisions are intended to provide plan sponsors with flexibility to continue the common practice of utilizing a probationary or trial period to determine whether a new employee will be able to handle the

[23] In section III of this preamble, some subsections have a heading listing one or two of the three Departments. In those subsections, the term "Departments" generally refers only to the Departments listed in the heading.

[24] This estimate is based upon internal Department of Labor calculations derived from the 2009 Medical Expenditure Panel Survey.

[25] *See e.g.,* Kaiser Family Foundation and Health Research and Education Trust, *Employer Health Benefits 2013 Annual Survey* (2013) available at *http://ehbs.kff.org/pdf/2013/8345.pdf.*

[26] Approximately 373,000 private sector employees and 87,000 State and local public sector employees.

duties and challenges of the job, while providing protections against excessive waiting periods for such employees. Under these final regulations, the plan's waiting period must begin once the new employee satisfies the plan's cumulative hours-of-service requirement or orientation period and may not exceed 90 days.

Because the 2013 Kaiser Survey reports that only nine percent of covered workers are in plans with waiting periods of four months or more and the overall average waiting period is only 1.8 months, the Departments are confident that such long waiting periods are rare.

B. Paperwork Reduction Act

1. Department of Labor and Department of the Treasury

As described earlier in this preamble, these final regulations amend the 2004 HIPAA regulations implementing Code section 9801, ERISA section 701, and PHS Act section 2701 (as originally added by HIPAA) to remove provisions superseded by the prohibition on preexisting conditions under PHS Act section 2704, added by the Affordable Care Act.

The Departments are discontinuing the following Information Collection Requests (ICRs) that are associated with the superseded regulations: The Notice of Preexisting Condition Exclusion Under Group Health Plans, which is approved under OMB Control Number 1210–0102 through January 31, 2016, and Establishing Creditable Coverage Under Group Health Plans, which is approved under OMB Control Number 1210–0103 through January 31, 2016. Additionally, the Departments are revising Final Regulations for Health Coverage Portability for Group Health Plans and Group Health Insurance Issuers under HIPAA Titles I & IV, which is approved under OMB Control Number 1545–1537 through February 28, 2014, to remove the Health Plans Imposing Pre-existing Condition Notification Requirements, Certification Requirements, and Exclusion Period Notification Information Collections within this ICR because they are associated with the superseded regulation.

Discontinuing and revising these ICRs would result in a total burden reduction of approximately 341,000 hours (5,000 hours attributable to OMB Control Number 1210–0102, 74,000 hours attributable to OMB Control Number 1210–0103, and 262,000 hours attributable to OMB Control Number 1545–1537) and a total cost burden reduction of approximately $32.7 million ($1.1 million attributable to OMB Control Number 1210–0102, $12.4 million attributable to OMB Control Number 1210–0103, and $19.2 million attributable to OMB Control Number 1545–1537).

2. Department of Health and Human Services

These final regulations amend the 2004 HIPAA regulations implementing Code section 9801, ERISA section 701, and PHS Act section 2701 (as originally added by HIPAA) to remove provisions superseded by the prohibition on preexisting conditions under PHS Act section 2704, added by the Affordable Care Act.

HHS will discontinue the following ICRs that are associated with the superseded regulations, beginning January 1, 2015: The Notice of Preexisting Condition Exclusion and Certifications of Creditable Coverage under group health plans, which are approved under OMB Control Number 0938–0702.

Discontinuing these ICRs will result in a total annual burden reduction of approximately 2,908,569 hours and a total cost burden reduction of approximately $89.2 million.

C. Regulatory Flexibility Act—Department of Labor and Department of Health and Human Services

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) applies to most Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 et seq.). Unless an agency certifies that such a rule will not have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities. Small entities include small businesses, organizations and governmental jurisdictions. In accordance with the RFA, the Departments prepared an initial regulatory flexibility analysis at the proposed rule stage and requested comments on the analysis. No comments were received. Below is the Department's final regulatory flexibility analysis and its certification that these final regulations do not have a significant economic impact on a substantial number of small entities.

The Departments carefully considered the likely impact of the rule on small entities in connection with their assessment under Executive Order 12866. The Departments lack data to focus only on the impacts on small business. However, the Departments believe that the final regulations include flexibility that would allow small employers to minimize the transfers in health insurance premiums that they would have to pay to employees. Based on the foregoing, the Departments hereby certify that these final regulations will not have a significant economic impact on a substantial number of small entities.

D. Special Analyses—Department of the Treasury

For purposes of the Department of the Treasury, it has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these final regulations, and, because these final regulations do not impose a collection of information requirement on small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to Code section 7805(f), this final rule has been submitted to the Small Business Administration for comment on its impact on small business.

E. Congressional Review Act

These final regulations are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.) and will be transmitted to the Congress and the Comptroller General for review.

F. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, these final regulations do not include any Federal mandate that may result in expenditures by State, local, or tribal governments, or by the private sector, of $100 million or more adjusted for inflation ($141 million in 2013).

G. Federalism Statement—Department of Labor and Department of Health and Human Services

Executive Order 13132 outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have "substantial direct effects" on the

States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies promulgating regulations that have these federalism implications must consult with State and local officials, and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to the regulation.

In the Departments' view, these final regulations have federalism implications, because they have direct effects on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among various levels of government. In general, through section 514, ERISA supersedes State laws to the extent that they relate to any covered employee benefit plan, and preserves State laws that regulate insurance, banking, or securities. While ERISA prohibits States from regulating a plan as an insurance or investment company or bank, the preemption provisions of ERISA section 731 and PHS Act section 2724 (implemented in 29 CFR 2590.731(a) and 45 CFR 146.143(a)) apply so that the HIPAA requirements (including those of the Affordable Care Act) are not to be "construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement" of a federal standard. The conference report accompanying HIPAA indicates that this is intended to be the "narrowest" preemption of State laws. (See House Conf. Rep. No. 104–736, at 205, reprinted in 1996 U.S. Code Cong. & Admin. News 2018.)

States may continue to apply State law requirements except to the extent that such requirements prevent the application of the Affordable Care Act requirements that are the subject of this rulemaking. State insurance laws that are more consumer protective than the Federal requirements are unlikely to "prevent the application of" the Affordable Care Act, and therefore are unlikely to be preempted. Accordingly, States have significant latitude to impose requirements on health insurance issuers that are more restrictive than the Federal law.

Guidance conveying this interpretation was published in the **Federal Register** on April 8, 1997 (62 FR 16904), and December 30, 2004 (69 FR 78720), and these final regulations clarify and implement the statute's minimum standards and do not significantly reduce the discretion given the States by the statute.

In compliance with the requirement of Executive Order 13132 that agencies examine closely any policies that may have federalism implications or limit the policy-making discretion of the States, the Departments have engaged in efforts to consult with and work cooperatively with affected State and local officials, including attending conferences of the National Association of Insurance Commissioners and consulting with State insurance officials on an individual basis.

Throughout the process of developing these final regulations, to the extent feasible within the specific preemption provisions of HIPAA as it applies to the Affordable Care Act, the Departments have attempted to balance the States' interests in regulating health insurance issuers, and Congress' intent to provide uniform minimum protections to consumers in every State. By doing so, it is the Departments' view that they have complied with the requirements of Executive Order 13132.

IV. Statutory Authority

The Department of the Treasury regulations are adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor regulations are adopted pursuant to the authority contained in 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1185d, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Public Law 111–148, 124 Stat. 119, as amended by Public Law 111–152, 124 Stat. 1029; Secretary of Labor's Order 3–2010, 75 FR 55354 (September 10, 2010).

The Department of Health and Human Services regulations are adopted, with respect to 45 CFR Parts 144 and 146, pursuant to the authority contained in sections 2702 through 2705, 2711 through 2723, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg–1 through 300gg–5, 300gg–11 through 300gg–23, 300gg–91, and 300gg–92), and, with respect to 45 CFR Part 147, pursuant to the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 144

Health care, Health insurance, Reporting and recordkeeping requirements.

45 CFR Parts 146 and 147

Health care, Health insurance, Reporting and recordkeeping requirements, and State regulation of health insurance.

John Dalrymple,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Approved: February 18, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

Signed this 12th day of February 2014.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: February 11, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Dated: February 13, 2014.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Accordingly, 26 CFR part 54 is amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 is amended by adding an entry for § 54.9815–2708 in numerical order to read in part as follows:

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

Section 54.9815–2708 is also issued under 26 U.S.C. 9833.

* * * * *

■ **Par. 2.** Section 54.9801–1 is amended by revising paragraph (b) to read as follows:

§ 54.9801–1 Basis and scope.

* * * * *

(b) *Scope.* A group health plan or health insurance issuer offering group

health insurance coverage may provide greater rights to participants and beneficiaries than those set forth in the portability and market reform sections of this part 54. This part 54 sets forth minimum requirements for group health plans and group health insurance issuers offering group health insurance coverage concerning certain consumer protections of the Health Insurance Portability and Accountability Act (HIPAA), including special enrollment periods and the prohibition against discrimination based on a health factor, as amended by the Patient Protection and Affordable Care Act (Affordable Care Act). Other consumer protection provisions, including other protections provided by the Affordable Care Act and the Mental Health Parity and Addiction Equity Act, are set forth in this part 54.

* * * * *

■ **Par. 3.** Section 54.9801–2 is amended by revising the definitions of "*enrollment date*", "*late enrollment*", and "*waiting period*", and by adding definitions of "*first day of coverage*" and "*late enrollee*" in alphabetical order, to read as follows:

§ 54.9801–2 Definitions.

* * * * *

Enrollment date means the first day of coverage or, if there is a waiting period, the first day of the waiting period. If an individual receiving benefits under a group health plan changes benefit packages, or if the plan changes group health insurance issuers, the individual's enrollment date does not change.

* * * * *

First day of coverage means, in the case of an individual covered for benefits under a group health plan, the first day of coverage under the plan and, in the case of an individual covered by health insurance coverage in the individual market, the first day of coverage under the policy or contract.

* * * * *

Late enrollee means an individual whose enrollment in a plan is a late enrollment.

Late enrollment means enrollment of an individual under a group health plan other than on the earliest date on which coverage can become effective for the individual under the terms of the plan; or through special enrollment. (For rules relating to special enrollment, see § 54.9801–6.) If an individual ceases to be eligible for coverage under a plan, and then subsequently becomes eligible for coverage under the plan, only the individual's most recent period of eligibility is taken into account in determining whether the individual is a late enrollee under the plan with respect to the most recent period of coverage. Similar rules apply if an individual again becomes eligible for coverage following a suspension of coverage that applied generally under the plan.

* * * * *

Waiting period means *waiting period* within the meaning of § 54.9815–2708(b).

* * * * *

■ **Par. 4.** Section 54.9801–3 is amended by:

■ A. Revising the section heading.

■ B. Removing paragraphs (a)(2), (a)(3), (c), (d), (e), and (f).

■ C. Revising the heading to paragraph (a).

■ D. Removing the heading to paragraph (a)(1), and redesignating paragraphs (a)(1)(i) and (a)(1)(ii) as paragraphs (a)(1) and (a)(2).

■ E. Amending newly designated paragraph (a)(2) by revising paragraph (ii) of Examples 1 and 2, by revising Example 3 and Example 4, and by revising paragraph (ii) of Examples 5, 6, 7 and 8.

■ F. Revising paragraph (b).

The revisions read as follows:

§ 54.9801–3 Preexisting condition exclusions.

(a) *Preexisting condition exclusion defined—*

* * * * *

(2) * * *

Example 1. * * *

(ii) *Conclusion.* In this *Example 1,* the exclusion of benefits for any prosthesis if the body part was lost before the effective date of coverage is a preexisting condition exclusion because it operates to exclude benefits for a condition based on the fact that the condition was present before the effective date of coverage under the policy. The exclusion of benefits, therefore, is prohibited.

Example 2. * * *

(ii) *Conclusion.* In this *Example 2,* the plan provision excluding cosmetic surgery benefits for individuals injured before enrolling in the plan is a preexisting condition exclusion because it operates to exclude benefits relating to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 3. (i) *Facts.* A group health plan provides coverage for the treatment of diabetes, generally not subject to any requirement to obtain an approval for a treatment plan. However, if an individual was diagnosed with diabetes before the effective date of coverage under the plan, diabetes coverage is subject to a requirement to obtain approval of a treatment plan in advance.

(ii) *Conclusion.* In this *Example 3,* the requirement to obtain advance approval of a treatment plan is a preexisting condition exclusion because it limits benefits for a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 4. (i) *Facts.* A group health plan provides coverage for three infertility treatments. The plan counts against the three-treatment limit benefits provided under prior health coverage.

(ii) *Conclusion.* In this *Example 4,* counting benefits for a specific condition provided under prior health coverage against a treatment limit for that condition is a preexisting condition exclusion because it operates to limit benefits for a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 5. * * *

(ii) *Conclusion.* In this *Example 5,* the requirement to be covered under the plan for 12 months to be eligible for pregnancy benefits is a subterfuge for a preexisting condition exclusion because it is designed to exclude benefits for a condition (pregnancy) that arose before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 6. * * *

(ii) *Conclusion.* In this *Example 6,* the exclusion of coverage for treatment of congenital heart conditions is a preexisting condition exclusion because it operates to exclude benefits relating to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 7. * * *

(ii) *Conclusion.* In this *Example 7,* the exclusion of coverage for treatment of cleft palate is not a preexisting condition exclusion because the exclusion applies regardless of when the condition arose relative to the effective date of coverage. The plan provision, therefore, is not prohibited. (But see 45 CFR 147.150, which may require coverage of cleft palate as an essential health benefit for health insurance coverage in the individual or small group market, depending on the essential health benefits benchmark plan as defined in 45 CFR 156.20).

Example 8. * * *

(ii) *Conclusion.* In this *Example 8,* the exclusion of coverage for treatment of cleft palate for individuals who have not been covered under the plan from the date of birth operates to exclude benefits in relation to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

(b) *General rules. See* section 2704 of the Public Health Service Act, incorporated into section 9815 of the Code, and its implementing regulations for rules prohibiting the imposition of a preexisting condition exclusion.

■ **Par. 5.** Section 54.9801–4 is amended by removing paragraphs (a)(3) and (c), and revising paragraph (b) to read as follows:

§ 54.9801–4 Rules relating to creditable coverage.

* * * * *

(b) *Counting creditable coverage rules superseded by prohibition on preexisting condition exclusion. See* section 2704 of the Public Health Service Act, incorporated into section 9815 of the Code, and its implementing regulations for rules prohibiting the imposition of a preexisting condition exclusion.

■ **Par. 6.** Section 54.9801–5 is revised to read as follows:

§ 54.9801–5 Evidence of creditable coverage.

(a) *In general.* The rules for providing certificates of creditable coverage and demonstrating creditable coverage have been superseded by the prohibition on preexisting condition exclusions. *See* section 2704 of the Public Health Service Act, incorporated into section 9815 of the Code, and its implementing regulations for rules prohibiting the imposition of a preexisting condition exclusion.

(b) *Applicability.* The provisions of this section apply beginning December 31, 2014.

■ **Par. 7.** Section 54.9801–6 is amended by removing paragraph (a)(3)(i)(E) and revising paragraphs (a)(3)(i)(C), (a)(3)(i)(D), (a)(4)(i), and (d)(2) to read as follows:

§ 54.9801–6 Special enrollment periods.

(a) * * *

(3) * * *

(i) * * *

(C) In the case of coverage offered through an HMO, or other arrangement, in the group market that does not provide benefits to individuals who no longer reside, live, or work in a service area, loss of coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and no other benefit package is available to the individual; and

(D) A situation in which a plan no longer offers any benefits to the class of similarly situated individuals (as described in § 54.9802–1(d)) that includes the individual.

* * * * *

(4) * * *

(i) A plan or issuer must allow an employee a period of at least 30 days after an event described in paragraph (a)(3) of this section to request enrollment (for the employee or the employee's dependent).

* * * * *

(d) * * *

(2) Special enrollees must be offered all the benefit packages available to similarly situated individuals who enroll when first eligible. For this purpose, any difference in benefits or cost-sharing requirements for different individuals constitutes a different benefit package. In addition, a special enrollee cannot be required to pay more for coverage than a similarly situated individual who enrolls in the same coverage when first eligible.

* * * * *

■ **Par. 8.** Section 54.9802–1 is amended by:

■ A. Revising paragraphs (b)(1)(i) and (b)(2)(i)(B).

■ B. Revising Example 1, paragraph (i) of Example 2, paragraph (ii) of Example 4, paragraph (ii) of Example 5, and removing Example 8, in paragraph (b)(2)(i)(D).

■ C. Removing paragraph (b)(3).

■ D. Revising Example 2 and paragraph (i) of Example 5 in paragraph (d)(4).

■ E. Revising paragraph (ii) of Example 2 in paragraph (e)(2)(i)(B).

■ F. Revising Example 1 in paragraph (g)(1)(ii).

The revisions read as follows:

§ 54.9802–1 Prohibiting discrimination against participants and beneficiaries based on a health factor.

* * * * *

(b) * * *

(1) * * *

(i) A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not establish any rule for eligibility (including continued eligibility) of any individual to enroll for benefits under the terms of the plan or group health insurance coverage that discriminates based on any health factor that relates to that individual or a dependent of that individual. This rule is subject to the provisions of paragraph (b)(2) of this section (explaining how this rule applies to benefits), paragraph (d) of this section (containing rules for establishing groups of similarly situated individuals), paragraph (e) of this section (relating to nonconfinement, actively-at-work, and other service requirements), paragraph (f) of this section (relating to wellness programs), and paragraph (g) of this section (permitting favorable treatment of individuals with adverse health factors).

* * * * *

(2) * * *

(i) * * *

(B) However, benefits provided under a plan must be uniformly available to all similarly situated individuals (as described in paragraph (d) of this section). Likewise, any restriction on a benefit or benefits must apply uniformly to all similarly situated individuals and must not be directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries (determined based on all the relevant facts and circumstances). Thus, for example, a plan may limit or exclude benefits in relation to a specific disease or condition, limit or exclude benefits for certain types of treatments or drugs, or limit or exclude benefits based on a determination of whether the benefits are experimental or not medically necessary, but only if the benefit limitation or exclusion applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries. In addition, a plan or issuer may require the satisfaction of a deductible, copayment, coinsurance, or other cost-sharing requirement in order to obtain a benefit if the limit or cost-sharing requirement applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries. In the case of a cost-sharing requirement, see also paragraph (b)(2)(ii) of this section, which permits variances in the application of a cost-sharing mechanism made available under a wellness program. (Whether any plan provision or practice with respect to benefits complies with this paragraph (b)(2)(i) does not affect whether the provision or practice is permitted under ERISA, the Affordable Care Act (including the requirements related to essential health benefits), the Americans With Disabilities Act, or any other law, whether State or Federal.)

* * * * *

(D) * * *

Example 1. (i) *Facts.* A group health plan applies a $10,000 annual limit on a specific covered benefit that is not an essential health benefit to each participant or beneficiary covered under the plan. The limit is not directed at individual participants or beneficiaries.

(ii) *Conclusion.* In this *Example 1,* the limit does not violate this paragraph (b)(2)(i) because coverage of the specific, non-essential health benefit up to $10,000 is available uniformly to each participant and beneficiary under the plan and because the limit is applied uniformly to all participants and beneficiaries and is not directed at individual participants or beneficiaries.

Example 2. (i) *Facts.* A group health plan has a $500 deductible on all benefits for participants covered under the plan. Participant *B* files a claim for the treatment of AIDS. At the next corporate board meeting of the plan sponsor, the claim is discussed. Shortly thereafter, the plan is modified to impose a $2,000 deductible on benefits for

the treatment of AIDS, effective before the beginning of the next plan year.

* * * * *

Example 4. * * *

(ii) *Conclusion.* In this *Example 4,* the limit does not violate this paragraph (b)(2)(i) because $2,000 of benefits for the treatment of TMJ are available uniformly to all similarly situated individuals and a plan may limit benefits covered in relation to a specific disease or condition if the limit applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries. (However, applying a lifetime limit on TMJ may violate PHS Act section 2711 and its implementing regulations, if TMJ coverage is an essential health benefit, depending on the essential health benefits benchmark plan as defined in 45 CFR 156.20. This example does not address whether the plan provision is permissible under any other applicable law, including PHS Act section 2711 or the Americans with Disabilities Act.)

Example 5. * * *

(ii) *Conclusion.* In this *Example 5,* the lower lifetime limit for participants and beneficiaries with a congenital heart defect violates this paragraph (b)(2)(i) because benefits under the plan are not uniformly available to all similarly situated individuals and the plan's lifetime limit on benefits does not apply uniformly to all similarly situated individuals. Additionally, this plan provision is prohibited under PHS Act section 2711 and its implementing regulations because it imposes a lifetime limit on essential health benefits.

* * * * *

(d) * * *

(4) * * *

Example 2. (i) *Facts.* Under a group health plan, coverage is made available to employees, their spouses, and their children. However, coverage is made available to a child only if the child is under age 26 (or under age 29 if the child is continuously enrolled full-time in an institution of higher learning (full-time students)). There is no evidence to suggest that these classifications are directed at individual participants or beneficiaries.

(ii) *Conclusion.* In this Example 2, treating spouses and children differently by imposing an age limitation on children, but not on spouses, is permitted under this paragraph (d). Specifically, the distinction between spouses and children is permitted under paragraph (d)(2) of this section and is not prohibited under paragraph (d)(3) of this section because it is not directed at individual participants or beneficiaries. It is also permissible to treat children who are under age 26 (or full-time students under age 29) as a group of similarly situated individuals separate from those who are age 26 or older (or age 29 or older if they are not full-time students) because the classification is permitted under paragraph (d)(2) of this section and is not directed at individual participants or beneficiaries.

* * * * *

Example 5. (i) *Facts.* An employer sponsors a group health plan that provides the same benefit package to all seven employees of the employer. Six of the seven employees have the same job title and responsibilities, but Employee *G* has a different job title and different responsibilities. After *G* files an expensive claim for benefits under the plan, coverage under the plan is modified so that employees with *G's* job title receive a different benefit package that includes a higher deductible than in the benefit package made available to the other six employees.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(B) * * *

Example 2. * * *

(ii) *Conclusion.* In this Example 2, the plan violates this paragraph (e)(2) (and thus also paragraph (b) of this section) because the 90-day continuous service requirement is a rule for eligibility based on whether an individual is actively at work. However, the plan would not violate this paragraph (e)(2) or paragraph (b) of this section if, under the plan, an absence due to any health factor is not considered an absence for purposes of measuring 90 days of continuous service. (In addition, any eligibility provision that is time-based must comply with the requirements of PHS Act section 2708 and its implementing regulations.)

* * * * *

(g) * * *

(1) * * *

(ii) * * *

Example 1. (i) *Facts.* An employer sponsors a group health plan that generally is available to employees, spouses of employees, and dependent children until age 26. However, dependent children who are disabled are eligible for coverage beyond age 26.

(ii) *Conclusion.* In this Example 1, the plan provision allowing coverage for disabled dependent children beyond age 26 satisfies this paragraph (g)(1) (and thus does not violate this section).

* * * * *

■ **Par. 9.** Section 54.9815–2708 is added to read as follows:

§ 54.9815–2708 Prohibition on waiting periods that exceed 90 days.

(a) *General rule.* A group health plan, and a health insurance issuer offering group health insurance coverage, must not apply any waiting period that exceeds 90 days, in accordance with the rules of this section. If, under the terms of a plan, an individual can elect coverage that would begin on a date that is not later than the end of the 90-day waiting period, this paragraph (a) is considered satisfied. Accordingly, in that case, a plan or issuer will not be considered to have violated this paragraph (a) solely because individuals take, or are permitted to take, additional time (beyond the end of the 90-day waiting period) to elect coverage.

(b) *Waiting period defined.* For purposes of this part, a waiting period is the period that must pass before coverage for an individual who is otherwise eligible to enroll under the terms of a group health plan can become effective. If an individual enrolls as a late enrollee (as defined under § 54.9801–2) or special enrollee (as described in § 54.9801–6), any period before such late or special enrollment is not a waiting period.

(c) *Relation to a plan's eligibility criteria*—(1) *In general.* Except as provided in paragraphs (c)(2) and (c)(3) of this section, being otherwise eligible to enroll under the terms of a group health plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period). Moreover, except as provided in paragraphs (c)(2) and (c)(3) of this section, nothing in this section requires a plan sponsor to offer coverage to any particular individual or class of individuals (including, for example, part-time employees). Instead, this section prohibits requiring otherwise eligible individuals to wait more than 90 days before coverage is effective. *See also* section 4980H of the Code and its implementing regulations for an applicable large employer's shared responsibility to provide health coverage to full-time employees.

(2) *Eligibility conditions based solely on the lapse of time.* Eligibility conditions that are based solely on the lapse of a time period are permissible for no more than 90 days.

(3) *Other conditions for eligibility.* Other conditions for eligibility under the terms of a group health plan are generally permissible under PHS Act section 2708, unless the condition is designed to avoid compliance with the 90-day waiting period limitation, determined in accordance with the rules of this paragraph (c)(3).

(i) *Application to variable-hour employees in cases in which a specified number of hours of service per period is a plan eligibility condition.* If a group health plan conditions eligibility on an employee regularly having a specified number of hours of service per period (or working full-time), and it cannot be determined that a newly-hired employee is reasonably expected to regularly work that number of hours per period (or work full-time), the plan may take a reasonable period of time, not to exceed 12 months and beginning on any date between the employee's start date and the first day of the first calendar month following the employee's start date, to determine whether the employee meets the plan's eligibility condition. Except in cases in which a

waiting period that exceeds 90 days is imposed in addition to a measurement period, the time period for determining whether such an employee meets the plan's eligibility condition will not be considered to be designed to avoid compliance with the 90-day waiting period limitation if coverage is made effective no later than 13 months from the employee's start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month.

(ii) *Cumulative service requirements.* If a group health plan or health insurance issuer conditions eligibility on an employee's having completed a number of cumulative hours of service, the eligibility condition is not considered to be designed to avoid compliance with the 90-day waiting period limitation if the cumulative hours-of-service requirement does not exceed 1,200 hours.

(d) *Application to rehires.* A plan or issuer may treat an employee whose employment has terminated and who then is rehired as newly eligible upon rehire and, therefore, required to meet the plan's eligibility criteria and waiting period anew, if reasonable under the circumstances (for example, the termination and rehire cannot be a subterfuge to avoid compliance with the 90-day waiting period limitation).

(e) *Counting days.* Under this section, all calendar days are counted beginning on the enrollment date (as defined in § 54.9801–2), including weekends and holidays. A plan or issuer that imposes a 90-day waiting period may, for administrative convenience, choose to permit coverage to become effective earlier than the 91st day if the 91st day is a weekend or holiday.

(f) *Examples.* The rules of this section are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan provides that full-time employees are eligible for coverage under the plan. Employee *A* begins employment as a full-time employee on January 19.

(ii) *Conclusion.* In this *Example 1,* any waiting period for *A* would begin on January 19 and may not exceed 90 days. Coverage under the plan must become effective no later than April 19 (assuming February lasts 28 days).

Example 2. (i) *Facts.* A group health plan provides that only employees with job title *M* are eligible for coverage under the plan. Employee *B* begins employment with job title *L* on January 30.

(ii) *Conclusion.* In this *Example 2, B* is not eligible for coverage under the plan, and the period while *B* is working with job title *L* and therefore not in an eligible class of employees, is not part of a waiting period under this section.

Example 3. (i) *Facts.* Same facts as in *Example 2,* except that *B* transfers to a new position with job title *M* on April 11.

(ii) *Conclusion.* In this *Example 3, B* becomes eligible for coverage on April 11, but for the waiting period. Any waiting period for *B* begins on April 11 and may not exceed 90 days; therefore, coverage under the plan must become effective no later than July 10.

Example 4. (i) *Facts.* A group health plan provides that only employees who have completed specified training and achieved specified certifications are eligible for coverage under the plan. Employee *C* is hired on May 3 and meets the plan's eligibility criteria on September 22.

(ii) *Conclusion.* In this *Example 4, C* becomes eligible for coverage-on September 22, but for the waiting period. Any waiting period for *C* would begin on September 22 and may not exceed 90 days; therefore, coverage under the plan must become effective no later than December 21.

Example 5. (i) *Facts.* A group health plan provides that employees are eligible for coverage after one year of service.

(ii) *Conclusion.* In this *Example 5,* the plan's eligibility condition is based solely on the lapse of time and, therefore, is impermissible under paragraph (c)(2) of this section because it exceeds 90 days.

Example 6. (i) *Facts.* Employer *V*'s group health plan provides for coverage to begin on the first day of the first payroll period on or after the date an employee is hired and completes the applicable enrollment forms. Enrollment forms are distributed on an employee's start date and may be completed within 90 days. Employee *D* is hired and starts on October 31, which is the first day of a pay period. *D* completes the enrollment forms and submits them on the 90th day after *D*'s start date, which is January 28. Coverage is made effective 7 days later, February 4, which is the first day of the next pay period.

(ii) *Conclusion.* In this *Example 6,* under the terms of *V*'s plan, coverage may become effective as early as October 31, depending on when *D* completes the applicable enrollment forms. Under the terms of the plan, when coverage becomes effective depends solely on the length of time taken by *D* to complete the enrollment materials. Therefore, under the terms of the plan, *D* may elect coverage that would begin on a date that does not exceed the 90-day waiting period limitation, and the plan complies with this section.

Example 7. (i) *Facts.* Under Employer *W*'s group health plan, only employees who are full-time (defined under the plan as regularly averaging 30 hours of service per week) are eligible for coverage. Employee *E* begins employment for Employer *W* on November 26 of Year 1. *E*'s hours are reasonably expected to vary, with an opportunity to work between 20 and 45 hours per week, depending on shift availability and *E*'s availability. Therefore, it cannot be determined at *E*'s start date that *E* is reasonably expected to work full-time. Under the terms of the plan, variable-hour employees, such as *E,* are eligible to enroll in the plan if they are determined to be a full-time employee after a measurement period of 12 months that begins on the employee's start date. Coverage is made effective no later than the first day of the first calendar month after the applicable enrollment forms are received. *E*'s 12-month measurement period ends November 25 of Year 2. *E* is determined to be a full-time employee and is notified of *E*'s plan eligibility. If *E* then elects coverage, *E*'s first day of coverage will be January 1 of Year 3.

(ii) *Conclusion.* In this *Example 7,* the measurement period is permissible because it is not considered to be designed to avoid compliance with the 90-day waiting period limitation. The plan may use a reasonable period of time to determine whether a variable-hour employee is a full-time employee, provided that (a) the period of time is no longer than 12 months; (b) the period of time begins on a date between the employee's start date and the first day of the next calendar month (inclusive); (c) coverage is made effective no later than 13 months from *E*'s start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month; and (d) in addition to the measurement period, no more than 90 days elapse prior to the employee's eligibility for coverage.

Example 8. (i) *Facts.* Employee *F* begins working 25 hours per week for Employer *X* on January 6 and is considered a part-time employee for purposes of *X*'s group health plan. *X* sponsors a group health plan that provides coverage to part-time employees after they have completed a cumulative 1,200 hours of service. *F* satisfies the plan's cumulative hours of service condition on December 15.

(ii) *Conclusion.* In this *Example 8,* the cumulative hours of service condition with respect to part-time employees is not considered to be designed to avoid compliance with the 90-day waiting period limitation. Accordingly, coverage for *F* under the plan must begin no later than the 91st day after *F* completes 1,200 hours. (If the plan's cumulative hours-of-service requirement was more than 1,200 hours, the requirement would be considered to be designed to avoid compliance with the 90-day waiting period limitation.)

Example 9. (i) *Facts.* A multiemployer plan operating pursuant to an arms-length collective bargaining agreement has an eligibility provision that allows employees to become eligible for coverage by working a specified number of hours of covered employment for multiple contributing employers. The plan aggregates hours in a calendar quarter and then, if enough hours are earned, coverage begins the first day of the next calendar quarter. The plan also permits coverage to extend for the next full calendar quarter, regardless of whether an employee's employment has terminated.

(ii) *Conclusion.* In this *Example 9,* these eligibility provisions are designed to accommodate a unique operating structure, and, therefore, are not considered to be designed to avoid compliance with the 90-day waiting period limitation, and the plan complies with this section.

Example 10. (i) *Facts.* Employee *G* retires at age 55 after 30 years of employment with

Employer *Y* with no expectation of providing further services to Employer *Y*. Three months later, *Y* recruits *G* to return to work as an employee providing advice and transition assistance for *G*'s replacement under a one-year employment contract. *Y*'s plan imposes a 90-day waiting period from an employee's start date before coverage becomes effective.

(ii) *Conclusion.* In this *Example 10, Y*'s plan may treat *G* as newly eligible for coverage under the plan upon rehire and therefore may impose the 90-day waiting period with respect to *G* for coverage offered in connection with *G*'s rehire.

(g) *Special rule for health insurance issuers.* To the extent coverage under a group health plan is insured by a health insurance issuer, the issuer is permitted to rely on the eligibility information reported to it by the employer (or other plan sponsor) and will not be considered to violate the requirements of this section with respect to its administration of any waiting period, if both of the following conditions are satisfied:

(1) The issuer requires the plan sponsor to make a representation regarding the terms of any eligibility conditions or waiting periods imposed by the plan sponsor before an individual is eligible to become covered under the terms of the plan (and requires the plan sponsor to update this representation with any changes), and

(2) The issuer has no specific knowledge of the imposition of a waiting period that would exceed the permitted 90-day period.

(h) *No effect on other laws.* Compliance with this section is not determinative of compliance with any other provision of State or Federal law (including ERISA, the Code, or other provisions of the Patient Protection and Affordable Care Act). *See e.g.,* § 54.9802–1, which prohibits discrimination in eligibility for coverage based on a health factor and section 4980H, which generally requires applicable large employers to offer coverage to full-time employees and their dependents or make an assessable payment.

(i) *Applicability date.* The provisions of this section apply for plan years beginning on or after January 1, 2015. *See* section 1251 of the Affordable Care Act, as amended by section 10103 of the Affordable Care Act and section 2301 of the Health Care and Education Reconciliation Act, and its implementing regulations providing that the prohibition on waiting periods exceeding 90 days applies to all group health plans and group health insurance issuers, including grandfathered health plans.

§ 54.9831–1 [Amended]

■ **Par. 10.** Section 54.9831–1 is amended by removing paragraph (b)(2)(i), and redesignating paragraphs (b)(2)(ii) through (b)(2)(viii) as (b)(2)(i) through (b)(2)(vii).

Department of Labor

Employee Benefits Security Administration

29 CFR Chapter XXV

For the reasons stated in the preamble, the Department of Labor amends 29 CFR part 2590 as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 11. The authority citation for Part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1185c, 1185d, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L.104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Secretary of Labor's Order 3–2010, 75 FR 55354 (September 10, 2010).

■ 12. Section 2590.701–1 is amended by revising paragraph (b) to read as follows:

§ 2590.701–1 Basis and scope.

* * * * *

(b) *Scope.* A group health plan or health insurance issuer offering group health insurance coverage may provide greater rights to participants and beneficiaries than those set forth in this Subpart B. This Subpart B sets forth minimum requirements for group health plans and group health insurance issuers offering group health insurance coverage concerning certain consumer protections of the Health Insurance Portability and Accountability Act (HIPAA), including special enrollment periods and the prohibition against discrimination based on a health factor, as amended by the Patient Protection and Affordable Care Act (Affordable Care Act). Other consumer protection provisions, including other protections provided by the Affordable Care Act and the Mental Health Parity and Addiction Equity Act, are set forth in Subpart C of this part.

■ 13. Section 2590.701–2 is amended by revising the definitions of "*enrollment date*", "*late enrollment*", and "*waiting period*", and by adding definitions of "*first day of coverage*" and "*late enrollee*" in alphabetical order, to read as follows:

§ 2590.701–2 Definitions.

* * * * *

Enrollment date means the first day of coverage or, if there is a waiting period, the first day of the waiting period. If an individual receiving benefits under a group health plan changes benefit packages, or if the plan changes group health insurance issuers, the individual's enrollment date does not change.

* * * * *

First day of coverage means, in the case of an individual covered for benefits under a group health plan, the first day of coverage under the plan and, in the case of an individual covered by health insurance coverage in the individual market, the first day of coverage under the policy or contract.

* * * * *

Late enrollee means an individual whose enrollment in a plan is a late enrollment.

Late enrollment means enrollment of an individual under a group health plan other than on the earliest date on which coverage can become effective for the individual under the terms of the plan; or through special enrollment. (For rules relating to special enrollment, see § 2590.701–6.) If an individual ceases to be eligible for coverage under a plan, and then subsequently becomes eligible for coverage under the plan, only the individual's most recent period of eligibility is taken into account in determining whether the individual is a late enrollee under the plan with respect to the most recent period of coverage. Similar rules apply if an individual again becomes eligible for coverage following a suspension of coverage that applied generally under the plan.

* * * * *

Waiting period means *waiting period* within the meaning of § 2590.715–2708(b).

■ 14. Section 2590.701–3 is amended by:

■ A. Revising the section heading.

■ B. Removing paragraphs (a)(2), (a)(3), (c), (d), (e), and (f).

■ C. Revising the heading to paragraph (a).

■ D. Removing the heading to paragraph (a)(1), and redesignating paragraphs (a)(1)(i) and (a)(1)(ii) as paragraphs (a)(1) and (a)(2).

■ E. Amending newly designated paragraph (a)(2) by revising paragraph (ii) of Examples 1 and 2, by revising Example 3 and Example 4, and by revising paragraph (ii) of Examples 5, 6, 7 and 8.

■ F. Revising paragraph (b).

The revisions read as follows:

§ 2590.701–3 Preexisting condition exclusions.

(a) *Preexisting condition exclusion defined—*

* * * * *

(2) * * *

Example 1. * * *

(ii) *Conclusion.* In this *Example 1,* the exclusion of benefits for any prosthesis if the body part was lost before the effective date of coverage is a preexisting condition exclusion because it operates to exclude benefits for a condition based on the fact that the condition was present before the effective date of coverage under the policy. The exclusion of benefits, therefore, is prohibited.

Example 2. * * *

(ii) *Conclusion.* In this *Example 2,* the plan provision excluding cosmetic surgery benefits for individuals injured before enrolling in the plan is a preexisting condition exclusion because it operates to exclude benefits relating to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 3. (i) *Facts.* A group health plan provides coverage for the treatment of diabetes, generally not subject to any requirement to obtain an approval for a treatment plan. However, if an individual was diagnosed with diabetes before the effective date of coverage under the plan, diabetes coverage is subject to a requirement to obtain approval of a treatment plan in advance.

(ii) *Conclusion.* In this *Example 3,* the requirement to obtain advance approval of a treatment plan is a preexisting condition exclusion because it limits benefits for a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 4. (i) *Facts.* A group health plan provides coverage for three infertility treatments. The plan counts against the three-treatment limit benefits provided under prior health coverage.

(ii) *Conclusion.* In this *Example 4,* counting benefits for a specific condition provided under prior health coverage against a treatment limit for that condition is a preexisting condition exclusion because it operates to limit benefits for a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 5. * * *

(ii) *Conclusion.* In this *Example 5,* the requirement to be covered under the plan for 12 months to be eligible for pregnancy benefits is a subterfuge for a preexisting condition exclusion because it is designed to exclude benefits for a condition (pregnancy) that arose before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 6. * * *

(ii) *Conclusion.* In this *Example 6,* the exclusion of coverage for treatment of congenital heart conditions is a preexisting condition exclusion because it operates to exclude benefits relating to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 7. * * *

(ii) *Conclusion.* In this *Example 7,* the exclusion of coverage for treatment of cleft palate is not a preexisting condition exclusion because the exclusion applies regardless of when the condition arose relative to the effective date of coverage. The plan provision, therefore, is not prohibited. (But see 45 CFR 147.150, which may require coverage of cleft palate as an essential health benefit for health insurance coverage in the individual or small group market, depending on the essential health benefits benchmark plan as defined in 45 CFR 156.20).

Example 8. * * *

(ii) *Conclusion.* In this *Example 8,* the exclusion of coverage for treatment of cleft palate for individuals who have not been covered under the plan from the date of birth operates to exclude benefits in relation to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

(b) *General rules. See* § 2590.715–2704 for rules prohibiting the imposition of a preexisting condition exclusion.

■ 15. Section 2590.701–4 is amended by removing paragraphs (a)(3) and (c), and revising paragraph (b) to read as follows:

§ 2590.701–4 Rules relating to creditable coverage.

* * * * *

(b) *Counting creditable coverage rules superseded by prohibition on preexisting condition exclusion. See* § 2590.715–2704 for rules prohibiting the imposition of a preexisting condition exclusion.

■ 16. Section 2590.701–5 is revised to read as follows:

§ 2590.701–5 Evidence of creditable coverage.

(a) *In general.* The rules for providing certificates of creditable coverage and demonstrating creditable coverage have been superseded by the prohibition on preexisting condition exclusions. *See* § 2590.715–2704 for rules prohibiting the imposition of a preexisting condition exclusion.

(b) *Applicability.* The provisions of this section apply beginning December 31, 2014.

■ 17. Section 2590.701–6 is amended by removing paragraph (a)(3)(i)(E) and revising paragraphs (a)(3)(i)(C), (a)(3)(i)(D), (a)(4)(i), and (d)(2) to read as follows:

§ 2590.701–6 Special enrollment periods.

* * * * *

(a) * * *

(3) * * *

(i) * * *

(C) In the case of coverage offered through an HMO, or other arrangement, in the group market that does not provide benefits to individuals who no longer reside, live, or work in a service area, loss of coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and no other benefit package is available to the individual; and

(D) A situation in which a plan no longer offers any benefits to the class of similarly situated individuals (as described in § 2590.702(d)) that includes the individual.

* * * * *

(4) * * *

(i) A plan or issuer must allow an employee a period of at least 30 days after an event described in paragraph (a)(3) of this section to request enrollment (for the employee or the employee's dependent).

* * * * *

(d) * * *

(2) Special enrollees must be offered all the benefit packages available to similarly situated individuals who enroll when first eligible. For this purpose, any difference in benefits or cost-sharing requirements for different individuals constitutes a different benefit package. In addition, a special enrollee cannot be required to pay more for coverage than a similarly situated individual who enrolls in the same coverage when first eligible.

* * * * *

■ 18. Section 2590.701–7 is revised to read as follows:

§ 2590.701–7 HMO affiliation period as an alternative to a preexisting condition exclusion.

The rules for HMO affiliation periods have been superseded by the prohibition on preexisting condition exclusions. *See* § 2590.715–2704 for rules prohibiting the imposition of a preexisting condition exclusion.

■ 19. Section 2590.702 is amended by:

■ A. Revising paragraphs (b)(1)(i) and (b)(2)(i)(B).

■ B. Revising Example 1, paragraph (i) of Example 2, paragraph (ii) of Example 4, paragraph (ii) of Example 5, and removing Example 8, in paragraph (b)(2)(i)(D).

■ C. Removing paragraph (b)(3).

■ D. Revising Example 2 and paragraph (i) of Example 5 in paragraph (d)(4).

■ E. Revising paragraph (ii) of Example 2 in paragraph (e)(2)(i)(B).

■ F. Revising Example 1 in paragraph (g)(1)(ii).

The revisions read as follows:

§ 2590.702 Prohibiting discrimination against participants and beneficiaries based on a health factor.

* * * * *

(b) * * *

(1) * * *

(i) A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not establish any rule for eligibility (including continued eligibility) of any individual to enroll for benefits under the terms of the plan or group health insurance coverage that discriminates based on any health factor that relates to that individual or a dependent of that individual. This rule is subject to the provisions of paragraph (b)(2) of this section (explaining how this rule applies to benefits), paragraph (d) of this section (containing rules for establishing groups of similarly situated individuals), paragraph (e) of this section (relating to nonconfinement, actively-at-work, and other service requirements), paragraph (f) of this section (relating to wellness programs), and paragraph (g) of this section (permitting favorable treatment of individuals with adverse health factors).

* * * * *

(2) * * *

(i) * * *

(B) However, benefits provided under a plan must be uniformly available to all similarly situated individuals (as described in paragraph (d) of this section). Likewise, any restriction on a benefit or benefits must apply uniformly to all similarly situated individuals and must not be directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries (determined based on all the relevant facts and circumstances). Thus, for example, a plan may limit or exclude benefits in relation to a specific disease or condition, limit or exclude benefits for certain types of treatments or drugs, or limit or exclude benefits based on a determination of whether the benefits are experimental or not medically necessary, but only if the benefit limitation or exclusion applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries. In addition, a plan or issuer may require the satisfaction of a deductible, copayment, coinsurance, or other cost-sharing requirement in order to obtain a benefit if the limit or cost-sharing requirement applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries. In the case of a cost-sharing requirement, see also paragraph (b)(2)(ii) of this section, which permits variances in the application of a cost-sharing mechanism made available under a wellness program. (Whether any plan provision or practice with respect to benefits complies with this paragraph (b)(2)(i) does not affect whether the provision or practice is permitted under ERISA, the Affordable Care Act (including the requirements related to essential health benefits), the Americans with Disabilities Act, or any other law, whether State or Federal.)

* * * * *

(D) * * *

Example 1. (i) *Facts.* A group health plan applies a $10,000 annual limit on a specific covered benefit that is not an essential health benefit to each participant or beneficiary covered under the plan. The limit is not directed at individual participants or beneficiaries.

(ii) *Conclusion.* In this *Example 1*, the limit does not violate this paragraph (b)(2)(i) because coverage of the specific, non-essential health benefit up to $10,000 is available uniformly to each participant and beneficiary under the plan and because the limit is applied uniformly to all participants and beneficiaries and is not directed at individual participants or beneficiaries.

Example 2. (i) *Facts.* A group health plan has a $500 deductible on all benefits for participants covered under the plan. Participant *B* files a claim for the treatment of AIDS. At the next corporate board meeting of the plan sponsor, the claim is discussed. Shortly thereafter, the plan is modified to impose a $2,000 deductible on benefits for the treatment of AIDS, effective before the beginning of the next plan year.

* * * * *

Example 4. * * *

(ii) *Conclusion.* In this *Example 4*, the limit does not violate this paragraph (b)(2)(i) because $2,000 of benefits for the treatment of TMJ are available uniformly to all similarly situated individuals and a plan may limit benefits covered in relation to a specific disease or condition if the limit applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries. (However, applying a lifetime limit on TMJ may violate § 2590.715–2711, if TMJ coverage is an essential health benefit, depending on the essential health benefits benchmark plan as defined in 45 CFR 156.20. This example does not address whether the plan provision is permissible under any other applicable law, including PHS Act section 2711 or the Americans with Disabilities Act.)

Example 5. * * *

(ii) *Conclusion.* In this *Example 5*, the lower lifetime limit for participants and beneficiaries with a congenital heart defect violates this paragraph (b)(2)(i) because benefits under the plan are not uniformly available to all similarly situated individuals and the plan's lifetime limit on benefits does not apply uniformly to all similarly situated individuals. Additionally, this plan provision is prohibited under § 2590.715–2711 because it imposes a lifetime limit on essential health benefits.

* * * * *

(d) * * *

(4) * * *

Example 2. (i) *Facts.* Under a group health plan, coverage is made available to employees, their spouses, and their children. However, coverage is made available to a child only if the child is under age 26 (or under age 29 if the child is continuously enrolled full-time in an institution of higher learning (full-time students)). There is no evidence to suggest that these classifications are directed at individual participants or beneficiaries.

(ii) *Conclusion.* In this Example 2, treating spouses and children differently by imposing an age limitation on children, but not on spouses, is permitted under this paragraph (d). Specifically, the distinction between spouses and children is permitted under paragraph (d)(2) of this section and is not prohibited under paragraph (d)(3) of this section because it is not directed at individual participants or beneficiaries. It is also permissible to treat children who are under age 26 (or full-time students under age 29) as a group of similarly situated individuals separate from those who are age 26 or older (or age 29 or older if they are not full-time students) because the classification is permitted under paragraph (d)(2) of this section and is not directed at individual participants or beneficiaries.

* * * * *

Example 5. (i) *Facts.* An employer sponsors a group health plan that provides the same benefit package to all seven employees of the employer. Six of the seven employees have the same job title and responsibilities, but Employee *G* has a different job title and different responsibilities. After *G* files an expensive claim for benefits under the plan, coverage under the plan is modified so that employees with *G*'s job title receive a different benefit package that includes a higher deductible than in the benefit package made available to the other six employees.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(B) * * *

Example 2. * * *

(ii) *Conclusion.* In this Example 2, the plan violates this paragraph (e)(2) (and thus also paragraph (b) of this section) because the 90-day continuous service requirement is a rule for eligibility based on whether an individual is actively at work. However, the plan would not violate this paragraph (e)(2) or paragraph (b) of this section if, under the plan, an absence due to any health factor is not considered an absence for purposes of measuring 90 days of continuous service. (In addition, any eligibility provision that is time-based must comply with the requirements of PHS Act section 2708 and its implementing regulations.)

* * * * *

(g) * * *

(1) * * *
(ii) * * *

Example 1. (i) *Facts.* An employer sponsors a group health plan that generally is available to employees, spouses of employees, and dependent children until age 26. However, dependent children who are disabled are eligible for coverage beyond age 26.

(ii) *Conclusion.* In this Example 1, the plan provision allowing coverage for disabled dependent children beyond age 26 satisfies this paragraph (g)(1) (and thus does not violate this section).

* * * * *

■ 20. Section 2590.715–2708 is added to read as follows:

§ 2590.715–2708 Prohibition on waiting periods that exceed 90 days.

(a) *General rule.* A group health plan, and a health insurance issuer offering group health insurance coverage, must not apply any waiting period that exceeds 90 days, in accordance with the rules of this section. If, under the terms of a plan, an individual can elect coverage that would begin on a date that is not later than the end of the 90-day waiting period, this paragraph (a) is considered satisfied. Accordingly, in that case, a plan or issuer will not be considered to have violated this paragraph (a) solely because individuals take, or are permitted to take, additional time (beyond the end of the 90-day waiting period) to elect coverage.

(b) *Waiting period defined.* For purposes of this part, a waiting period is the period that must pass before coverage for an individual who is otherwise eligible to enroll under the terms of a group health plan can become effective. If an individual enrolls as a late enrollee (as defined under § 2590.701–2) or special enrollee (as described in § 2590.701–6), any period before such late or special enrollment is not a waiting period.

(c) *Relation to a plan's eligibility criteria*—(1) *In general.* Except as provided in paragraphs (c)(2) and (c)(3) of this section, being otherwise eligible to enroll under the terms of a group health plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period). Moreover, except as provided in paragraphs (c)(2) and (c)(3) of this section, nothing in this section requires a plan sponsor to offer coverage to any particular individual or class of individuals (including, for example, part-time employees). Instead, this section prohibits requiring otherwise eligible individuals to wait more than 90 days before coverage is effective. *See also* section 4980H of the Code and its implementing regulations for an applicable large employer's shared responsibility to provide health coverage to full-time employees.

(2) *Eligibility conditions based solely on the lapse of time.* Eligibility conditions that are based solely on the lapse of a time period are permissible for no more than 90 days.

(3) *Other conditions for eligibility.* Other conditions for eligibility under the terms of a group health plan are generally permissible under PHS Act section 2708, unless the condition is designed to avoid compliance with the 90-day waiting period limitation, determined in accordance with the rules of this paragraph (c)(3).

(i) *Application to variable-hour employees in cases in which a specified number of hours of service per period is a plan eligibility condition.* If a group health plan conditions eligibility on an employee regularly having a specified number of hours of service per period (or working full-time), and it cannot be determined that a newly-hired employee is reasonably expected to regularly work that number of hours per period (or work full-time), the plan may take a reasonable period of time, not to exceed 12 months and beginning on any date between the employee's start date and the first day of the first calendar month following the employee's start date, to determine whether the employee meets the plan's eligibility condition. Except in cases in which a waiting period that exceeds 90 days is imposed in addition to a measurement period, the time period for determining whether such an employee meets the plan's eligibility condition will not be considered to be designed to avoid compliance with the 90-day waiting period limitation if coverage is made effective no later than 13 months from the employee's start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month.

(ii) *Cumulative service requirements.* If a group health plan or health insurance issuer conditions eligibility on an employee's having completed a number of cumulative hours of service, the eligibility condition is not considered to be designed to avoid compliance with the 90-day waiting period limitation if the cumulative hours-of-service requirement does not exceed 1,200 hours.

(d) *Application to rehires.* A plan or issuer may treat an employee whose employment has terminated and who then is rehired as newly eligible upon rehire and, therefore, required to meet the plan's eligibility criteria and waiting period anew, if reasonable under the circumstances (for example, the termination and rehire cannot be a subterfuge to avoid compliance with the 90-day waiting period limitation).

(e) *Counting days.* Under this section, all calendar days are counted beginning on the enrollment date (as defined in § 2590.701–2), including weekends and holidays. A plan or issuer that imposes a 90-day waiting period may, for administrative convenience, choose to permit coverage to become effective earlier than the 91st day if the 91st day is a weekend or holiday.

(f) *Examples.* The rules of this section are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan provides that full-time employees are eligible for coverage under the plan. Employee *A* begins employment as a full-time employee on January 19.

(ii) *Conclusion.* In this *Example 1,* any waiting period for *A* would begin on January 19 and may not exceed 90 days. Coverage under the plan must become effective no later than April 19 (assuming February lasts 28 days).

Example 2. (i) *Facts.* A group health plan provides that only employees with job title *M* are eligible for coverage under the plan. Employee *B* begins employment with job title *L* on January 30.

(ii) *Conclusion.* In this *Example 2, B* is not eligible for coverage under the plan, and the period while *B* is working with job title *L* and therefore not in an eligible class of employees, is not part of a waiting period under this section.

Example 3. (i) *Facts.* Same facts as in *Example 2,* except that *B* transfers to a new position with job title *M* on April 11.

(ii) *Conclusion.* In this *Example 3, B* becomes eligible for coverage on April 11, but for the waiting period. Any waiting period for *B* begins on April 11 and may not exceed 90 days; therefore, coverage under the plan must become effective no later than July 10.

Example 4. (i) *Facts.* A group health plan provides that only employees who have completed specified training and achieved specified certifications are eligible for coverage under the plan. Employee *C* is hired on May 3 and meets the plan's eligibility criteria on September 22.

(ii) *Conclusion.* In this *Example 4, C* becomes eligible for coverage on September 22, but for the waiting period. Any waiting period for *C* would begin on September 22 and may not exceed 90 days; therefore, coverage under the plan must become effective no later than December 21.

Example 5. (i) *Facts.* A group health plan provides that employees are eligible for coverage after one year of service.

(ii) *Conclusion.* In this *Example 5,* the plan's eligibility condition is based solely on the lapse of time and, therefore, is impermissible under paragraph (c)(2) of this section because it exceeds 90 days.

Example 6. (i) *Facts.* Employer *V*'s group health plan provides for coverage to begin on the first day of the first payroll period on or after the date an employee is hired and completes the applicable enrollment forms. Enrollment forms are distributed on an employee's start date and may be completed within 90 days. Employee *D* is hired and starts on October 31, which is the first day of a pay period. *D* completes the enrollment forms and submits them on the 90th day after *D*'s start date, which is January 28. Coverage is made effective 7 days later, February 4, which is the first day of the next pay period.

(ii) *Conclusion.* In this *Example 6,* under the terms of *V*'s plan, coverage may become effective as early as October 31, depending on when *D* completes the applicable enrollment forms. Under the terms of the plan, when coverage becomes effective depends solely on the length of time taken by *D* to complete the enrollment materials. Therefore, under the terms of the plan, *D* may elect coverage that would begin on a date that does not exceed the 90-day waiting period limitation, and the plan complies with this section.

Example 7. (i) *Facts.* Under Employer *W*'s group health plan, only employees who are full-time (defined under the plan as regularly averaging 30 hours of service per week) are eligible for coverage. Employee *E* begins employment for Employer *W* on November 26 of Year 1. *E*'s hours are reasonably expected to vary, with an opportunity to work between 20 and 45 hours per week, depending on shift availability and *E*'s availability. Therefore, it cannot be determined at *E*'s start date that *E* is reasonably expected to work full-time. Under the terms of the plan, variable-hour employees, such as *E,* are eligible to enroll in the plan if they are determined to be a full-time employee after a measurement period of 12 months that begins on the employee's start date. Coverage is made effective no later than the first day of the first calendar month after the applicable enrollment forms are received. *E*'s 12-month measurement period ends November 25 of Year 2. *E* is determined to be a full-time employee and is notified of *E*'s plan eligibility. If *E* then elects coverage, *E*'s first day of coverage will be January 1 of Year 3.

(ii) *Conclusion.* In this *Example 7,* the measurement period is permissible because it is not considered to be designed to avoid compliance with the 90-day waiting period limitation. The plan may use a reasonable period of time to determine whether a variable-hour employee is a full-time employee, provided that (a) the period of time is no longer than 12 months; (b) the period of time begins on a date between the employee's start date and the first day of the next calendar month (inclusive); (c) coverage is made effective no later than 13 months from *E*'s start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month; and (d) in addition to the measurement period, no more than 90 days elapse prior to the employee's eligibility for coverage.

Example 8. (i) *Facts.* Employee *F* begins working 25 hours per week for Employer *X* on January 6 and is considered a part-time employee for purposes of *X*'s group health plan. *X* sponsors a group health plan that provides coverage to part-time employees after they have completed a cumulative 1,200 hours of service. *F* satisfies the plan's cumulative hours of service condition on December 15.

(ii) *Conclusion.* In this *Example 8,* the cumulative hours of service condition with respect to part-time employees is not considered to be designed to avoid compliance with the 90-day waiting period limitation. Accordingly, coverage for *F* under the plan must begin no later than the 91st day after *F* completes 1,200 hours. (If the plan's cumulative hours-of-service requirement was more than 1,200 hours, the requirement would be considered to be designed to avoid compliance with the 90-day waiting period limitation.)

Example 9. (i) *Facts.* A multiemployer plan operating pursuant to an arms-length collective bargaining agreement has an eligibility provision that allows employees to become eligible for coverage by working a specified number of hours of covered employment for multiple contributing employers. The plan aggregates hours in a calendar quarter and then, if enough hours are earned, coverage begins the first day of the next calendar quarter. The plan also permits coverage to extend for the next full calendar quarter, regardless of whether an employee's employment has terminated.

(ii) *Conclusion.* In this *Example 9,* these eligibility provisions are designed to accommodate a unique operating structure, and, therefore, are not considered to be designed to avoid compliance with the 90-day waiting period limitation, and the plan complies with this section.

Example 10. (i) *Facts.* Employee *G* retires at age 55 after 30 years of employment with Employer *Y* with no expectation of providing further services to Employer *Y*. Three months later, *Y* recruits *G* to return to work as an employee providing advice and transition assistance for *G*'s replacement under a one-year employment contract. *Y*'s plan imposes a 90-day waiting period from an employee's start date before coverage becomes effective.

(ii) *Conclusion.* In this *Example 10, Y*'s plan may treat *G* as newly eligible for coverage under the plan upon rehire and therefore may impose the 90-day waiting period with respect to *G* for coverage offered in connection with *G*'s rehire.

(g) *Special rule for health insurance issuers.* To the extent coverage under a group health plan is insured by a health insurance issuer, the issuer is permitted to rely on the eligibility information reported to it by the employer (or other plan sponsor) and will not be considered to violate the requirements of this section with respect to its administration of any waiting period, if both of the following conditions are satisfied:

(1) The issuer requires the plan sponsor to make a representation regarding the terms of any eligibility conditions or waiting periods imposed by the plan sponsor before an individual is eligible to become covered under the terms of the plan (and requires the plan sponsor to update this representation with any changes), and

(2) The issuer has no specific knowledge of the imposition of a waiting period that would exceed the permitted 90-day period.

(h) *No effect on other laws.* Compliance with this section is not determinative of compliance with any other provision of State or Federal law (including ERISA, the Code, or other provisions of the Patient Protection and Affordable Care Act). *See e.g.,* § 2590.702, which prohibits discrimination in eligibility for coverage based on a health factor and Code section 4980H, which generally requires applicable large employers to offer coverage to full-time employees and their dependents or make an assessable payment.

(i) *Applicability date.* The provisions of this section apply for plan years beginning on or after January 1, 2015. *See* § 2590.715–1251 providing that the prohibition on waiting periods exceeding 90 days applies to all group health plans and group health insurance issuers, including grandfathered health plans.

■ 21. Section 2590.731 by revising paragraph (c)(2) to read as follows:

§ 2590.731 Preemption; State flexibility; construction.

* * * * *

(c) * * *

(2) *Exceptions.* Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provision of State law to the extent that such provision requires special enrollment periods in addition to those required under section 701(f) of the Act.

* * * * *

§ 2590.732 [Amended]

■ 22. Section 2590.732 is amended by removing paragraph (b)(2)(i), and redesignating paragraphs (b)(2)(ii) through (b)(2)(ix) as (b)(2)(i) through (b)(2)(viii).

Department of Health and Human Services

45 CFR Subtitle A

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR parts 144, 146, and 147 as set forth below:

PART 144—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE

■ 23. The authority citation for part 144 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92).

■ 24. Section 144.103 is amended by revising the definitions of *"enrollment date"*, *"late enrollment"*, and *"waiting period"*, and by adding definitions of *"first day of coverage"* and *"late enrollee"* in alphabetical order, to read as follows:

§ 144.103 Definitions.

* * * * *

Enrollment date means the first day of coverage or, if there is a waiting period, the first day of the waiting period. If an individual receiving benefits under a group health plan changes benefit packages, or if the plan changes group health insurance issuers, the individual's enrollment date does not change.

* * * * *

First day of coverage means, in the case of an individual covered for benefits under a group health plan, the first day of coverage under the plan and, in the case of an individual covered by health insurance coverage in the individual market, the first day of coverage under the policy or contract.

* * * * *

Late enrollee means an individual whose enrollment in a plan is a late enrollment.

Late enrollment means enrollment of an individual under a group health plan other than on the earliest date on which coverage can become effective for the individual under the terms of the plan; or through special enrollment. (For rules relating to special enrollment and limited open enrollment, see § 146.117 and § 147.104 of this subchapter.) If an individual ceases to be eligible for coverage under a plan, and then subsequently becomes eligible for coverage under the plan, only the individual's most recent period of eligibility is taken into account in determining whether the individual is a late enrollee under the plan with respect to the most recent period of coverage. Similar rules apply if an individual again becomes eligible for coverage following a suspension of coverage that applied generally under the plan.

* * * * *

Waiting period has the meaning given the term in 45 CFR 147.116(b).

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 25. The authority citation for part 146 continues to read as follows:

Authority: Secs. 2702 through 2705, 2711 through 2723, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg–1 through 300gg–5, 300gg–11 through 300gg–23, 300gg–91, and 300gg–92).

■ 26. Section 146.101 is amended by revising paragraph (b)(1) to read as follows:

§ 146.101 Basis and scope.

* * * * *

(b) * * *

(1) *Subpart B.* Subpart B of this part sets forth minimum requirements for group health plans and group health insurance issuers offering group health insurance coverage concerning certain consumer protections of the Health Insurance Portability and Accountability Act (HIPAA), as amended, including special enrollment periods, prohibiting discrimination against participants and beneficiaries based on a health factor, and additional requirements prohibiting discrimination against participants and beneficiaries based on genetic information.

* * * * *

■ 27. Section 146.111 is amended by:
■ A. Revising the section heading.
■ B. Removing paragraphs (a)(2), (a)(3), (c), (d), (e), and (f).
■ C. Revising the heading to paragraph (a).
■ D. Removing the heading to paragraph (a)(1), and redesignating paragraphs (a)(1)(i) and (a)(1)(ii) as paragraphs (a)(1) and (a)(2).
■ E. Amending newly designated paragraph (a)(2) by revising paragraph (ii) of Examples 1 and 2, by revising Example 3 and Example 4, and by revising paragraph (ii) of Examples 5, 6, 7 and 8.
■ F. Revising paragraph (b).

The revisions read as follows:

§ 146.111 Preexisting condition exclusions.

(a) *Preexisting condition exclusion defined—*

* * * * *

(2) * * *

Example 1. * * *

(ii) *Conclusion.* In this *Example 1,* the exclusion of benefits for any prosthesis if the body part was lost before the effective date of coverage is a preexisting condition exclusion because it operates to exclude benefits for a condition based on the fact that the condition was present before the effective date of coverage under the policy. The exclusion of benefits, therefore, is prohibited.

Example 2. * * *

(ii) *Conclusion.* In this *Example 2,* the plan provision excluding cosmetic surgery benefits for individuals injured before enrolling in the plan is a preexisting condition exclusion because it operates to exclude benefits relating to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 3. (i) *Facts.* A group health plan provides coverage for the treatment of diabetes, generally not subject to any requirement to obtain an approval for a treatment plan. However, if an individual was diagnosed with diabetes before the effective date of coverage under the plan, diabetes coverage is subject to a requirement to obtain approval of a treatment plan in advance.

(ii) *Conclusion.* In this *Example 3,* the requirement to obtain advance approval of a treatment plan is a preexisting condition exclusion because it limits benefits for a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 4. (i) *Facts.* A group health plan provides coverage for three infertility treatments. The plan counts against the three-treatment limit benefits provided under prior health coverage.

(ii) *Conclusion.* In this *Example 4,* counting benefits for a specific condition provided under prior health coverage against a treatment limit for that condition is a preexisting condition exclusion because it operates to limit benefits for a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 5. * * *

(ii) *Conclusion.* In this *Example 5,* the requirement to be covered under the plan for 12 months to be eligible for pregnancy benefits is a subterfuge for a preexisting condition exclusion because it is designed to exclude benefits for a condition (pregnancy) that arose before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 6. * * *

(ii) *Conclusion.* In this *Example 6,* the exclusion of coverage for treatment of congenital heart conditions is a preexisting condition exclusion because it operates to exclude benefits relating to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

Example 7. * * *

(ii) *Conclusion.* In this *Example 7,* the exclusion of coverage for treatment of cleft palate is not a preexisting condition exclusion because the exclusion applies regardless of when the condition arose relative to the effective date of coverage. The plan provision, therefore, is not prohibited. (But see 45 CFR 147.150, which may require coverage of cleft palate as an essential health benefit for health insurance coverage in the individual or small group market, depending on the essential health benefits benchmark plan as defined in § 156.20 of this subchapter).

Example 8. * * *

(ii) *Conclusion.* In this *Example 8,* the exclusion of coverage for treatment of cleft palate for individuals who have not been covered under the plan from the date of birth operates to exclude benefits in relation to a condition based on the fact that the condition was present before the effective date of coverage. The plan provision, therefore, is prohibited.

* * * * *

(b) *General rules. See* § 147.108 of this subchapter for rules prohibiting the imposition of a preexisting condition exclusion.

■ 28. Section 146.113 is amended by removing paragraphs (a)(3) and (c), and revising paragraph (b) to read as follows:

§ 146.113 Rules relating to creditable coverage.

* * * * *

(b) *Counting creditable coverage rules superseded by prohibition on preexisting condition exclusion. See* § 147.108 of this subchapter for rules prohibiting the imposition of a preexisting condition exclusion.

■ 29. Section 146.115 is revised to read as follows:

§ 146.115 Certification and disclosure of previous coverage.

(a) *In general.* The rules for providing certificates of creditable coverage and demonstrating creditable coverage have been superseded by the prohibition on preexisting condition exclusions. *See* § 147.108 of this subchapter for rules prohibiting the imposition of a preexisting condition exclusion.

(b) *Applicability.* The provisions of this section apply beginning December 31, 2014.

■ 30. Section 146.117 is amended by removing paragraph (a)(3)(i)(E) and revising paragraphs (a)(3)(i)(C), (a)(3)(i)(D), (a)(4)(i), and (d)(2) to read as follows:

§ 146.117 Special enrollment periods.

* * * * *

(a) * * *

(3) * * *

(i) * * *

(C) In the case of coverage offered through an HMO, or other arrangement, in the group market that does not provide benefits to individuals who no longer reside, live, or work in a service area, loss of coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and no other benefit package is available to the individual; and

(D) A situation in which a plan no longer offers any benefits to the class of similarly situated individuals (as described in § 146.121(d)) that includes the individual.

* * * * *

(4) * * *

(i) A plan or issuer must allow an employee a period of at least 30 days after an event described in paragraph (a)(3) of this section to request enrollment (for the employee or the employee's dependent).

* * * * *

(d) * * *

(2) Special enrollees must be offered all the benefit packages available to similarly situated individuals who enroll when first eligible. For this purpose, any difference in benefits or cost-sharing requirements for different individuals constitutes a different benefit package. In addition, a special enrollee cannot be required to pay more for coverage than a similarly situated individual who enrolls in the same coverage when first eligible.

* * * * *

■ 31. Section 146.119 is revised to read as follows:

§ 146.119 HMO affiliation period as an alternative to a preexisting condition exclusion.

The rules for HMO affiliation periods have been superseded by the prohibition on preexisting condition exclusions. *See* § 147.108 of this subchapter for rules prohibiting the imposition of a preexisting condition exclusion.

■ 32. Section 146.121 is amended by:

■ A. Revising paragraphs (b)(1)(i) and (b)(2)(i)(B).

■ B. Revising Example 1, paragraph (i) of Example 2, paragraph (ii) of Example 4, paragraph (ii) of Example 5, and removing Example 8, in paragraph (b)(2)(i)(D).

■ C. Removing paragraph (b)(3).

■ D. Revising Example 2 and paragraph (i) of Example 5 in paragraph (d)(4).

■ E. Revising paragraph (ii) of Example 2 in paragraph (e)(2)(i)(B).

■ F. Revising Example 1 in paragraph (g)(1)(ii).

The revisions read as follows:

§ 146.121 Prohibiting discrimination against participants and beneficiaries based on a health factor.

* * * * *

(b) * * *

(1) * * *

(i) A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not establish any rule for eligibility (including continued eligibility) of any individual to enroll for benefits under the terms of the plan or group health insurance coverage that discriminates based on any health factor that relates to that individual or a dependent of that individual. This rule is subject to the provisions of paragraph (b)(2) of this section (explaining how this rule applies to benefits), paragraph (d) of this section (containing rules for establishing groups of similarly situated individuals), paragraph (e) of this section (relating to nonconfinement, actively-at-work, and other service requirements), paragraph (f) of this section (relating to wellness programs), and paragraph (g) of this section (permitting favorable treatment of individuals with adverse health factors).

* * * * *

(2) * * *

(i) * * *

(B) However, benefits provided under a plan must be uniformly available to all similarly situated individuals (as described in paragraph (d) of this section). Likewise, any restriction on a benefit or benefits must apply uniformly to all similarly situated individuals and must not be directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries (determined based on all the relevant facts and circumstances). Thus, for example, a plan may limit or exclude benefits in relation to a specific disease or condition, limit or exclude benefits for certain types of treatments or drugs, or limit or exclude benefits based on a determination of whether the benefits are experimental or not medically necessary, but only if the benefit limitation or exclusion applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries. In addition, a plan or issuer may require the satisfaction of a deductible, copayment, coinsurance, or other cost-sharing requirement in order to obtain a benefit if the limit or cost-sharing requirement applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries. In the case of a cost-sharing requirement, see also paragraph (b)(2)(ii) of this section, which permits variances in the application of a cost-sharing mechanism made available under a wellness program. (Whether any plan provision or practice with respect to benefits complies with this paragraph (b)(2)(i) does not affect whether the provision or practice is permitted under ERISA, the Affordable Care Act (including the

requirements related to essential health benefits), the Americans with Disabilities Act, or any other law, whether State or Federal.)

* * * * *

(D) * * *

Example 1. (i) *Facts.* A group health plan applies a $10,000 annual limit on a specific covered benefit that is not an essential health benefit to each participant or beneficiary covered under the plan. The limit is not directed at individual participants or beneficiaries.

(ii) *Conclusion.* In this *Example 1,* the limit does not violate this paragraph (b)(2)(i) because coverage of the specific, non-essential health benefit up to $10,000 is available uniformly to each participant and beneficiary under the plan and because the limit is applied uniformly to all participants and beneficiaries and is not directed at individual participants or beneficiaries.

Example 2. (i) *Facts.* A group health plan has a $500 deductible on all benefits for participants covered under the plan. Participant *B* files a claim for the treatment of AIDS. At the next corporate board meeting of the plan sponsor, the claim is discussed. Shortly thereafter, the plan is modified to impose a $2,000 deductible on benefits for the treatment of AIDS, effective before the beginning of the next plan year.

* * * * *

Example 4. * * *

(ii) *Conclusion.* In this *Example 4,* the limit does not violate this paragraph (b)(2)(i) because $2,000 of benefits for the treatment of TMJ are available uniformly to all similarly situated individuals and a plan may limit benefits covered in relation to a specific disease or condition if the limit applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries. (However, applying a lifetime limit on TMJ may violate § 147.126 of this subchapter, if TMJ coverage is an essential health benefit, depending on the essential health benefits benchmark plan as defined in § 156.20 of this subchapter. This example does not address whether the plan provision is permissible under any other applicable law, including PHS Act section 2711 or the Americans with Disabilities Act.)

Example 5. * * *

(ii) *Conclusion.* In this *Example 5,* the lower lifetime limit for participants and beneficiaries with a congenital heart defect violates this paragraph (b)(2)(i) because benefits under the plan are not uniformly available to all similarly situated individuals and the plan's lifetime limit on benefits does not apply uniformly to all similarly situated individuals. Additionally, this plan provision is prohibited under § 147.126 of this subchapter because it imposes a lifetime limit on essential health benefits.

* * * * *

(d) * * *

(4) * * *

Example 2. (i) *Facts.* Under a group health plan, coverage is made available to employees, their spouses, and their children. However, coverage is made available to a child only if the child is under age 26 (or under age 29 if the child is continuously enrolled full-time in an institution of higher learning (full-time students)). There is no evidence to suggest that these classifications are directed at individual participants or beneficiaries.

(ii) *Conclusion.* In this Example 2, treating spouses and children differently by imposing an age limitation on children, but not on spouses, is permitted under this paragraph (d). Specifically, the distinction between spouses and children is permitted under paragraph (d)(2) of this section and is not prohibited under paragraph (d)(3) of this section because it is not directed at individual participants or beneficiaries. It is also permissible to treat children who are under age 26 (or full-time students under age 29) as a group of similarly situated individuals separate from those who are age 26 or older (or age 29 or older if they are not full-time students) because the classification is permitted under paragraph (d)(2) of this section and is not directed at individual participants or beneficiaries.

* * * * *

Example 5. (i) *Facts.* An employer sponsors a group health plan that provides the same benefit package to all seven employees of the employer. Six of the seven employees have the same job title and responsibilities, but Employee *G* has a different job title and different responsibilities. After *G* files an expensive claim for benefits under the plan, coverage under the plan is modified so that employees with *G*'s job title receive a different benefit package that includes a higher deductible than in the benefit package made available to the other six employees.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(B) * * *

Example 2. * * *

(ii) *Conclusion.* In this Example 2, the plan violates this paragraph (e)(2) (and thus also paragraph (b) of this section) because the 90-day continuous service requirement is a rule for eligibility based on whether an individual is actively at work. However, the plan would not violate this paragraph (e)(2) or paragraph (b) of this section if, under the plan, an absence due to any health factor is not considered an absence for purposes of measuring 90 days of continuous service. (In addition, any eligibility provision that is time-based must comply with the requirements of PHS Act section 2708 and its implementing regulations.)

* * * * *

(g) * * *

(1) * * *

(ii) * * *

Example 1. (i) *Facts.* An employer sponsors a group health plan that generally is available to employees, spouses of employees, and dependent children until age 26. However, dependent children who are disabled are eligible for coverage beyond age 26.

(ii) *Conclusion.* In this Example 1, the plan provision allowing coverage for disabled dependent children beyond age 26 satisfies this paragraph (g)(1) (and thus does not violate this section).

* * * * *

■ 33. Section 146.143 is amended by revising paragraph (c)(2) to read as follows:

§ 146.143 Preemption; State flexibility; construction.

* * * * *

(c) * * *

(2) *Exceptions.* Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provision of State law to the extent that such provision requires special enrollment periods in addition to those required under section 2702 of the Act.

* * * * *

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 34. The authority citation for part 147 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 35. Section 147.116 is added to read as follows:

§ 147.116 Prohibition on waiting periods that exceed 90 days.

(a) *General rule.* A group health plan, and a health insurance issuer offering group health insurance coverage, must not apply any waiting period that exceeds 90 days, in accordance with the rules of this section. If, under the terms of a plan, an individual can elect coverage that would begin on a date that is not later than the end of the 90-day waiting period, this paragraph (a) is considered satisfied. Accordingly, in that case, a plan or issuer will not be considered to have violated this paragraph (a) solely because individuals take, or are permitted to take, additional time (beyond the end of the 90-day waiting period) to elect coverage.

(b) *Waiting period defined.* For purposes of this part, a waiting period is the period that must pass before coverage for an individual who is otherwise eligible to enroll under the terms of a group health plan can become effective. If an individual enrolls as a late enrollee (as defined under § 144.103 of this subchapter) or special enrollee (as described in § 146.117 of this subchapter), any period before such late or special enrollment is not a waiting period.

(c) *Relation to a plan's eligibility criteria*—(1) *In general.* Except as

provided in paragraphs (c)(2) and (c)(3) of this section, being otherwise eligible to enroll under the terms of a group health plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period). Moreover, except as provided in paragraphs (c)(2) and (c)(3) of this section, nothing in this section requires a plan sponsor to offer coverage to any particular individual or class of individuals (including, for example, part-time employees). Instead, this section prohibits requiring otherwise eligible individuals to wait more than 90 days before coverage is effective. *See also* section 4980H of the Code and its implementing regulations for an applicable large employer's shared responsibility to provide health coverage to full-time employees.

(2) *Eligibility conditions based solely on the lapse of time.* Eligibility conditions that are based solely on the lapse of a time period are permissible for no more than 90 days.

(3) *Other conditions for eligibility.* Other conditions for eligibility under the terms of a group health plan are generally permissible under PHS Act section 2708, unless the condition is designed to avoid compliance with the 90-day waiting period limitation, determined in accordance with the rules of this paragraph (c)(3).

(i) *Application to variable-hour employees in cases in which a specified number of hours of service per period is a plan eligibility condition.* If a group health plan conditions eligibility on an employee regularly having a specified number of hours of service per period (or working full-time), and it cannot be determined that a newly-hired employee is reasonably expected to regularly work that number of hours per period (or work full-time), the plan may take a reasonable period of time, not to exceed 12 months and beginning on any date between the employee's start date and the first day of the first calendar month following the employee's start date, to determine whether the employee meets the plan's eligibility condition. Except in cases in which a waiting period that exceeds 90 days is imposed in addition to a measurement period, the time period for determining whether such an employee meets the plan's eligibility condition will not be considered to be designed to avoid compliance with the 90-day waiting period limitation if coverage is made effective no later than 13 months from the employee's start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month.

(ii) *Cumulative service requirements.* If a group health plan or health insurance issuer conditions eligibility on an employee's having completed a number of cumulative hours of service, the eligibility condition is not considered to be designed to avoid compliance with the 90-day waiting period limitation if the cumulative hours-of-service requirement does not exceed 1,200 hours.

(d) *Application to rehires.* A plan or issuer may treat an employee whose employment has terminated and who then is rehired as newly eligible upon rehire and, therefore, required to meet the plan's eligibility criteria and waiting period anew, if reasonable under the circumstances (for example, the termination and rehire cannot be a subterfuge to avoid compliance with the 90-day waiting period limitation).

(e) *Counting days.* Under this section, all calendar days are counted beginning on the enrollment date (as defined in § 144.103), including weekends and holidays. A plan or issuer that imposes a 90-day waiting period may, for administrative convenience, choose to permit coverage to become effective earlier than the 91st day if the 91st day is a weekend or holiday.

(f) *Examples.* The rules of this section are illustrated by the following examples:

Example 1. (i) *Facts.* A group health plan provides that full-time employees are eligible for coverage under the plan. Employee *A* begins employment as a full-time employee on January 19.

(ii) *Conclusion.* In this *Example 1*, any waiting period for *A* would begin on January 19 and may not exceed 90 days. Coverage under the plan must become effective no later than April 19 (assuming February lasts 28 days).

Example 2. (i) *Facts.* A group health plan provides that only employees with job title *M* are eligible for coverage under the plan. Employee *B* begins employment with job title *L* on January 30.

(ii) *Conclusion.* In this *Example 2*, *B* is not eligible for coverage under the plan, and the period while *B* is working with job title *L* and therefore not in an eligible class of employees, is not part of a waiting period under this section.

Example 3. (i) *Facts.* Same facts as in *Example 2*, except that *B* transfers to a new position with job title *M* on April 11.

(ii) *Conclusion.* In this *Example 3*, *B* becomes eligible for coverage on April 11, but for the waiting period. Any waiting period for *B* begins on April 11 and may not exceed 90 days; therefore, coverage under the plan must become effective no later than July 10.

Example 4. (i) *Facts.* A group health plan provides that only employees who have completed specified training and achieved specified certifications are eligible for coverage under the plan. Employee *C* is hired on May 3 and meets the plan's eligibility criteria on September 22.

(ii) *Conclusion.* In this *Example 4*, *C* becomes eligible for coverage on September 22, but for the waiting period. Any waiting period for *C* would begin on September 22 and may not exceed 90 days; therefore, coverage under the plan must become effective no later than December 21.

Example 5. (i) *Facts.* A group health plan provides that employees are eligible for coverage after one year of service.

(ii) *Conclusion.* In this *Example 5*, the plan's eligibility condition is based solely on the lapse of time and, therefore, is impermissible under paragraph (c)(2) of this section because it exceeds 90 days.

Example 6. (i) *Facts.* Employer *V*'s group health plan provides for coverage to begin on the first day of the first payroll period on or after the date an employee is hired and completes the applicable enrollment forms. Enrollment forms are distributed on an employee's start date and may be completed within 90 days. Employee *D* is hired and starts on October 31, which is the first day of a pay period. *D* completes the enrollment forms and submits them on the 90th day after *D*'s start date, which is January 28. Coverage is made effective 7 days later, February 4, which is the first day of the next pay period.

(ii) *Conclusion.* In this *Example 6*, under the terms of *V*'s plan, coverage may become effective as early as October 31, depending on when *D* completes the applicable enrollment forms. Under the terms of the plan, when coverage becomes effective depends solely on the length of time taken by *D* to complete the enrollment materials. Therefore, under the terms of the plan, *D* may elect coverage that would begin on a date that does not exceed the 90-day waiting period limitation, and the plan complies with this section.

Example 7. (i) *Facts.* Under Employer *W*'s group health plan, only employees who are full-time (defined under the plan as regularly averaging 30 hours of service per week) are eligible for coverage. Employee *E* begins employment for Employer *W* on November 26 of Year 1. *E*'s hours are reasonably expected to vary, with an opportunity to work between 20 and 45 hours per week, depending on shift availability and *E*'s availability. Therefore, it cannot be determined at *E*'s start date that *E* is reasonably expected to work full-time. Under the terms of the plan, variable-hour employees, such as *E*, are eligible to enroll in the plan if they are determined to be a full-time employee after a measurement period of 12 months that begins on the employee's start date. Coverage is made effective no later than the first day of the first calendar month after the applicable enrollment forms are received. *E*'s 12-month measurement period ends November 25 of Year 2. *E* is determined to be a full-time employee and is notified of *E*'s plan eligibility. If *E* then elects coverage, *E*'s first day of coverage will be January 1 of Year 3.

(ii) *Conclusion.* In this *Example 7,* the measurement period is permissible because it is not considered to be designed to avoid compliance with the 90-day waiting period limitation. The plan may use a reasonable period of time to determine whether a variable-hour employee is a full-time employee, provided that (a) the period of time is no longer than 12 months; (b) the period of time begins on a date between the employee's start date and the first day of the next calendar month (inclusive); (c) coverage is made effective no later than 13 months from *E*'s start date plus, if the employee's start date is not the first day of a calendar month, the time remaining until the first day of the next calendar month; and (d) in addition to the measurement period, no more than 90 days elapse prior to the employee's eligibility for coverage.

Example 8. (i) *Facts.* Employee *F* begins working 25 hours per week for Employer *X* on January 6 and is considered a part-time employee for purposes of *X*'s group health plan. *X* sponsors a group health plan that provides coverage to part-time employees after they have completed a cumulative 1,200 hours of service. *F* satisfies the plan's cumulative hours of service condition on December 15.

(ii) *Conclusion.* In this *Example 8,* the cumulative hours of service condition with respect to part-time employees is not considered to be designed to avoid compliance with the 90-day waiting period limitation. Accordingly, coverage for *F* under the plan must begin no later than the 91st day after *F* completes 1,200 hours. (If the plan's cumulative hours-of-service requirement was more than 1,200 hours, the requirement would be considered to be designed to avoid compliance with the 90-day waiting period limitation.)

Example 9. (i) *Facts.* A multiemployer plan operating pursuant to an arms-length collective bargaining agreement has an eligibility provision that allows employees to become eligible for coverage by working a specified number of hours of covered employment for multiple contributing employers. The plan aggregates hours in a calendar quarter and then, if enough hours are earned, coverage begins the first day of the next calendar quarter. The plan also permits coverage to extend for the next full calendar quarter, regardless of whether an employee's employment has terminated.

(ii) *Conclusion.* In this *Example 9,* these eligibility provisions are designed to accommodate a unique operating structure, and, therefore, are not considered to be designed to avoid compliance with the 90-day waiting period limitation, and the plan complies with this section.

Example 10. (i) *Facts.* Employee *G* retires at age 55 after 30 years of employment with Employer *Y* with no expectation of providing further services to Employer *Y.* Three months later, *Y* recruits *G* to return to work as an employee providing advice and transition assistance for *G*'s replacement under a one-year employment contract. *Y*'s plan imposes a 90-day waiting period from an employee's start date before coverage becomes effective.

(ii) *Conclusion.* In this *Example 10, Y*'s plan may treat *G* as newly eligible for coverage under the plan upon rehire and therefore may impose the 90-day waiting period with respect to *G* for coverage offered in connection with *G*'s rehire.

(g) *Special rule for health insurance issuers.* To the extent coverage under a group health plan is insured by a health insurance issuer, the issuer is permitted to rely on the eligibility information reported to it by the employer (or other plan sponsor) and will not be considered to violate the requirements of this section with respect to its administration of any waiting period, if both of the following conditions are satisfied:

(1) The issuer requires the plan sponsor to make a representation regarding the terms of any eligibility conditions or waiting periods imposed by the plan sponsor before an individual is eligible to become covered under the terms of the plan (and requires the plan sponsor to update this representation with any changes), and

(2) The issuer has no specific knowledge of the imposition of a waiting period that would exceed the permitted 90-day period.

(h) *No effect on other laws.* Compliance with this section is not determinative of compliance with any other provision of State or Federal law (including ERISA, the Code, or other provisions of the Patient Protection and Affordable Care Act). *See e.g.,* § 146.121 of this subchapter and § 147.110, which prohibits discrimination in eligibility for coverage based on a health factor and Code section 4980H, which generally requires applicable large employers to offer coverage to full-time employees and their dependents or make an assessable payment.

(i) *Applicability date.* The provisions of this section apply for plan years beginning on or after January 1, 2015. *See* § 147.140 providing that the prohibition on waiting periods exceeding 90 days applies to all group health plans and group health insurance issuers, including grandfathered health plans.

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Part IV

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Internal Revenue Service

26 CFR Part 54

Department of Labor
Employee Benefits Security Administration

29 CFR Part 2590

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45 CFR Part 147
Ninety-Day Waiting Period Limitation; Proposed Rule

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 147

[CMS–9952–P2]

RIN 0938–AR77

Ninety-Day Waiting Period Limitation

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Proposed rules.

SUMMARY: These proposed regulations would clarify the maximum allowed length of any reasonable and bona fide employment-based orientation period, consistent with the 90-day waiting period limitation set forth in section 2708 of the Public Health Service Act, as added by the Patient Protection and Affordable Care Act (Affordable Care Act), as amended, and incorporated into the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code.

DATES: Written comments on this notice of proposed rulemaking are invited and must be received by April 25, 2014.

ADDRESSES: Written comments may be submitted to the Department of Labor as specified below. Any comment that is submitted will be shared with the other Departments and will also be made available to the public. Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously.

Comments, identified by "Ninety-day waiting period limitation," may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail or Hand Delivery: Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Room N–5653, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Attention: Ninety-day waiting period limitation.

Comments received will be posted without change to *www.regulations.gov* and available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Elizabeth Schumacher, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 317–6846; or Cam Moultrie Clemmons, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at (410) 786–1565.

Customer service information: Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS) Web site (*www.cciio.cms.gov/*) and information on health reform can be found at *www.HealthCare.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111–152, was enacted on March 30, 2010. (They are collectively known as the "Affordable Care Act".) The Affordable Care Act reorganizes, amends, and adds to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. The term "group health plan" includes both insured and self-insured group health plans.[1] The Affordable Care Act adds section 715(a)(1) to the Employee Retirement Income Security Act (ERISA) and section 9815(a)(1) to the Internal Revenue Code (the Code) to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, and to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The PHS Act sections incorporated by these references are sections 2701 through 2728.

PHS Act section 2708, as added by the Affordable Care Act and incorporated into ERISA and the Code, provides that a group health plan or health insurance issuer offering group health insurance coverage shall not apply any waiting period (as defined in PHS Act section 2704(b)(4)) that exceeds 90 days. PHS Act section 2704(b)(4), ERISA section 701(b)(4), and Code section 9801(b)(4) define a waiting period to be the period that must pass with respect to an individual before the individual is eligible to be covered for benefits under the terms of the plan. In 2004 regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) portability provisions (2004 HIPAA regulations), the Departments of Labor, Health and Human Services (HHS), and the Treasury (the Departments[2]) defined a waiting period to mean the period that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective.[3] PHS Act section 2708 does not require an employer to offer coverage to any particular individual or class of individuals, including part-time employees. PHS Act section 2708 merely prevents an otherwise eligible individual from being required to wait more than 90 days before coverage becomes effective. PHS Act section 2708 applies to both grandfathered and non-grandfathered group health plans and group health insurance coverage for

[1] The term "group health plan" is used in title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, and is distinct from the term "health plan," as used in other provisions of title I of the Affordable Care Act. The term "health plan" does not include self-insured group health plans.

[2] Note, however, that in the Economic Analysis and Paperwork Burden section of this preamble, in sections under headings listing only two of the three Departments, the term "Departments" generally refers only to the two Departments listed in the heading.

[3] 26 CFR 54.9801–3(a)(3)(iii), 29 CFR 2590.701–3(a)(3)(iii), and 45 CFR 146.111(a)(3)(iii).

plan years beginning on or after January 1, 2014.

On February 9, 2012, the Departments issued guidance [4] outlining various approaches under consideration with respect to both the 90-day waiting period limitation and the employer shared responsibility provisions under Code section 4980H (February 2012 guidance) and requested public comment. On August 31, 2012, following their review of the comments on the February 2012 guidance, the Departments provided temporary guidance,[5] to remain in effect at least through the end of 2014, regarding the 90-day waiting period limitation, and described the approach they intended to propose in future rulemaking (August 2012 guidance). After consideration of all of the comments received in response to the February 2012 guidance and August 2012 guidance, the Departments issued proposed regulations on March 21, 2013 (78 FR 17313).

Under the proposed regulations, a group health plan, and a health insurance issuer offering group health insurance coverage may not apply any waiting period that exceeds 90 days. The regulations proposed to define "waiting period" as the period that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective. Being otherwise eligible to enroll in a plan means having met the plan's substantive eligibility conditions (such as being in an eligible job classification or achieving job-related licensure requirements specified in the plan's terms). After consideration of comments on the proposed regulations, the Departments are publishing final regulations elsewhere in this issue of the **Federal Register**. These proposed regulations address orientation periods under the 90-day waiting period limitation of PHS Act section 2708 and solicit comment before promulgation of final regulations on this discrete issue.

II. Overview of the Proposed Regulations

A. Orientation Periods

Final regulations published elsewhere in this edition of the **Federal Register** set forth rules governing the relationship between a plan's eligibility criteria and the 90-day waiting period limitation. Specifically, the final regulations provide that being otherwise eligible to enroll in a plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period). Under the final regulations, after an individual is determined to be otherwise eligible for coverage under the terms of the plan, any waiting period may not extend beyond 90 days, and all calendar days are counted beginning on the enrollment date, including weekends and holidays.[6]

The final regulations do not specify the facts and circumstances under which an employment-based orientation period would not be considered "reasonable and bona fide." These proposed regulations would provide that one month is the maximum allowed length of any reasonable and bona fide employment-based orientation period. During an orientation period, the Departments envision that an employer and employee could evaluate whether the employment situation was satisfactory for each party, and standard orientation and training processes would begin. Under these proposed regulations, one month would be determined by adding one calendar month and subtracting one calendar day, measured from an employee's start date in a position that is otherwise eligible for coverage. For example, if an employee's start date in an otherwise eligible position is May 3, the last permitted day of the orientation period is June 2. Similarly, if an employee's start date in an otherwise eligible position is October 1, the last permitted day of the orientation period is October 31. If there is not a corresponding date in the next calendar month upon adding a calendar month, the last permitted day of the orientation period is the last day of the next calendar month. For example, if the employee's start date is January 30, the last permitted day of the orientation period is February 28 (or February 29 in a leap year). Similarly, if the employee's start date is August 31, the last permitted day of the orientation period is September 30. If a group health plan conditions eligibility on an employee's having completed a reasonable and bona fide employment-based orientation period, the eligibility condition would not be considered to be designed to avoid compliance with the 90-day waiting period limitation if the orientation period did not exceed one month and the maximum 90-day waiting period would begin on the first day after the orientation period.

B. Comment Invitation and Reliance

The Departments invite comments on these proposed regulations. The Departments will consider compliance with these proposed regulations to constitute compliance with PHS Act section 2708 at least through the end of 2014. To the extent final regulations or other guidance with respect to the application of the 90-day waiting period limitation to orientation periods is more restrictive on plans and issuers, the final regulations or other guidance will not be effective prior to January 1, 2015, and will provide plans and issuers a reasonable time period to comply.

III. Economic Impact and Paperwork Burden

A. Executive Order 12866 and 13563—Department of Labor and Department of Health and Human Services

Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing and streamlining rules, and of promoting flexibility. It also requires federal agencies to develop a plan under which the agencies will periodically review their existing significant regulations to make the agencies' regulatory programs more effective or less burdensome in achieving their regulatory objectives.

Under Executive Order 12866, a regulatory action deemed "significant" is subject to the requirements of the Executive Order and review by the Office of Management and Budget (OMB). Section 3(f) of the Executive Order 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, 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 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

[4] Department of Labor Technical Release 2012–01, IRS Notice 2012–17, and HHS FAQs issued February 9, 2012.

[5] Department of Labor Technical Release 2012–02, IRS Notice 2012–59, and HHS FAQs issued August 31, 2012.

[6] The final regulations also note that a plan or issuer that imposes a 90-day waiting period may, for administrative convenience, choose to permit coverage to become effective earlier than the 91st day if the 91st day is a weekend of holiday.

President's priorities, or the principles set forth in the Executive Order.

These proposed regulations are not economically significant within the meaning of section 3(f)(1) of the Executive Order. However, OMB has determined that the actions are significant within the meaning of section 3(f)(4) of the Executive Order. Therefore, OMB has reviewed these proposed regulations, and the Departments[7] have provided the following assessment of their impact.

1. Summary

As stated earlier in this preamble, these proposed regulations address reasonable and bona fide employment-based orientation periods under the 90-day waiting period limitation of PHS Act section 2708. The Departments have crafted these proposed regulations to secure the protections intended by Congress in an economically efficient manner. The Departments lack sufficient data to quantify the regulations' economic cost or benefits. The proposed regulations implementing PHS Act section 2708[8] provided a qualitative discussion of economic impacts of proposed limits on waiting periods and requested detailed comments and data that would allow for quantification of the costs, benefits, and transfers. Comments were received expressing concern about the cost to employers that currently have waiting periods longer than 90 days, and explaining that they would have to change their practices and often have to provide coverage sooner than the 90-day waiting period limitation. No comments provided additional data that would help in estimating the economic impacts of the proposed regulations. The Departments request comments that would allow them to quantify the impacts of these proposed regulations on the discrete issue of orientation periods.

2. Estimated Number of Affected Entities

The Departments estimate that 4.1 million new employees receive group health insurance coverage through private sector employers and 1.0 million new employees receive group health insurance coverage through public sector employers annually.[9] The 2013 Kaiser Family Foundation and Health Research and Education Trust Employer Health Benefits Annual Survey (the "2013 Kaiser Survey") finds that 30 percent of covered workers were subject to waiting periods of three months or more.[10] The Departments do not have any data, and therefore invite public comment, on the number of employees subject to orientation periods, as described earlier in this preamble.

2. Benefits

The final regulations provide that being otherwise eligible to enroll in a plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period). These proposed regulations would provide that one month is the maximum allowed length of any reasonable and bona fide employment-based orientation period. During an orientation period, the Departments envision that an employer and employee could evaluate whether the employment situation was satisfactory for each party, and standard orientation and training processes would begin. If a group health plan conditions eligibility on an employee's having completed a reasonable and bona fide employment-based orientation period, the eligibility condition would not be considered to be designed to avoid compliance with the 90-day waiting period limitation if the orientation period did not exceed one month and the maximum 90-day waiting period would begin on the first day after the orientation period.

3. Costs

These proposed regulations could extend the time between an employee beginning work and obtaining health care coverage relative to the time before the issuance of the final regulations and these proposed regulations. If employees delay health care treatment until the expiration of the orientation period and waiting period, detrimental health effects can result, especially for employees and their dependents requiring higher levels of health care, such as older Americans, pregnant women, young children, and those with chronic conditions. This could lead to lower work productivity and missed school days. Low-wage workers also are vulnerable, because they have less income to spend out-of-pocket to cover medical expenses. The Departments anticipate that these proposed regulations could lead to these effects, although the overall cost may be limited because few employees are likely to be affected and it is anticipated that conditioning eligibility on an employee's having completed an orientation period will not result in most employees facing a full additional month between being hired and obtaining coverage.

4. Transfers

The possible transfers associated with these proposed regulations would arise from employers beginning to pay their portion of premiums or contributions later than they did before the issuance of the final regulations and these proposed regulations. Recipients of the transfer would be employers who implement an orientation period in addition to the 90-day waiting period, thus delaying having to pay premiums. The source of the transfers would be covered employees who, after these proposed regulations become applicable, will have to wait longer between being employed and obtaining health coverage, during which they must forgo health coverage, purchase COBRA continuation coverage, or obtain an individual health insurance policy—all of which are options that could lead to higher out-of-pocket costs for employees to cover their healthcare expenditures.

The Departments believe that under these proposed regulations only a small number of employers would further delay offering coverage to their employees because a relatively small fraction of workers have an orientation period in addition to a waiting periods that runs for 90 days.

B. Regulatory Flexibility Act—Department of Labor and Department of Health and Human Services

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) applies to most Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 et seq.). Unless an agency certifies that such a rule will not have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities. Small entities include

[7] In section III of this preamble, some subsections have a heading listing one or two of the three Departments. In those subsections, the term "Departments" generally refers only to the Departments listed in the heading.

[8] 78 FR 17313 (March 21, 2013).

[9] This estimate is based upon internal Department of Labor calculations derived from the 2009 Medical Expenditure Panel Survey.

[10] *See e.g.*, Kaiser Family Foundation and Health Research and Education Trust, *Employer Heolth Benefits 2013 Annuol Survey* (2013) available at *http://ehbs.kff.org/pdf/2013/8345.pdf.*

small businesses, organizations and governmental jurisdictions.

For purposes of analysis under the RFA, the Departments propose to continue to consider a small entity to be an employee benefit plan with fewer than 100 participants. The basis of this definition is found in section 104(a)(3) of ERISA, which permits the Secretary of Labor to prescribe simplified annual reports for welfare benefit plans that cover fewer than 100 participants.[11]

Further, while some large employers may have small plans, in general, small employers maintain most small plans. Thus, the Departments believe that assessing the impact of these proposed regulations on small plans is an appropriate substitute for evaluating the effect on small entities.

The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 et seq.). The Departments therefore request comments on the appropriateness of the size standard used in evaluating the impact of these proposed regulations on small entities.

The Departments carefully considered the likely impact of the rule on small entities in connection with their assessment under Executive Order 12866. The Departments lack data to focus only on the impacts on small business. However, the Departments believe that the proposed regulations include flexibility that would minimize the transfers in health insurance premiums that would occur due to the orientation period.

The Departments hereby certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Consistent with the policy of the RFA, the Departments encourage the public to submit comments that would allow the Departments to assess the impacts specifically on small plans or suggest alternative rules that accomplish the stated purpose of PHS Act section 2708 and minimize the impact on small entities.

[11] Under ERISA section 104(a)(2), the Secretary may also provide exemptions or simplified reporting and disclosure requirements for pension plans. Pursuant to the authority of ERISA section 104(a)(3), the Department of Labor has previously issued at 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46, and 2520.104b–10 certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans, that cover fewer than 100 participants and satisfy certain other requirements.

C. Special Analyses—Department of the Treasury

For purposes of the Department of the Treasury, it has been determined that this proposed rule is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these proposed regulations, and, because these proposed regulations do not impose a collection of information requirement on small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to Code section 7805(f), this proposed rule has been submitted to the Small Business Administration for comment on its impact on small business.

D. Congressional Review Act

These proposed regulations are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.) and, if finalized, will be transmitted to the Congress and the Comptroller General for review.

E. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, these proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or tribal governments, or by the private sector, of $100 million or more adjusted for inflation.

F. Federalism Statement—Department of Labor and Department of Health and Human Services

Executive Order 13132 outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have "substantial direct effects" on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies promulgating regulations that have these federalism implications must consult with State and local officials, and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to the regulation.

In the Departments' view, these proposed regulations have federalism implications, because they have direct effects on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among various levels of government. In general, through section 514, ERISA supersedes State laws to the extent that they relate to any covered employee benefit plan, and preserves State laws that regulate insurance, banking, or securities. While ERISA prohibits States from regulating a plan as an insurance or investment company or bank, the preemption provisions of ERISA section 731 and PHS Act section 2724 (implemented in 29 CFR 2590.731(a) and 45 CFR 146.143(a)) apply so that the HIPAA requirements (including those of the Affordable Care Act) are not to be "construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement" of a federal standard. The conference report accompanying HIPAA indicates that this is intended to be the "narrowest" preemption of State laws. (See House Conf. Rep. No. 104–736, at 205, reprinted in 1996 U.S. Code Cong. & Admin. News 2018.)

States may continue to apply State law requirements except to the extent that such requirements prevent the application of the Affordable Care Act requirements that are the subject of this rulemaking. State insurance laws that are more consumer protective than the Federal requirements are unlikely to "prevent the application of" the Affordable Care Act, and therefore are unlikely to be preempted. Accordingly, States have significant latitude to impose requirements on health insurance issuers that are more restrictive than the Federal law.

Guidance conveying this interpretation was published in the **Federal Register** on April 8, 1997 (62 FR 16904), and December 30, 2004 (69 FR 78720), and these proposed regulations would clarify and implement the statute's minimum standards and would not significantly reduce the discretion given the States by the statute.

In compliance with the requirement of Executive Order 13132 that agencies examine closely any policies that may have federalism implications or limit the policy making discretion of the States, the Departments have engaged in efforts to consult with and work

cooperatively with affected State and local officials, including attending conferences of the National Association of Insurance Commissioners and consulting with State insurance officials on an individual basis.

Throughout the process of developing these proposed regulations, to the extent feasible within the specific preemption provisions of HIPAA as it applies to the Affordable Care Act, the Departments have attempted to balance the States' interests in regulating health insurance issuers, and Congress' intent to provide uniform minimum protections to consumers in every State. By doing so, it is the Departments' view that they have complied with the requirements of Executive Order 13132.

IV. Statutory Authority

The Department of the Treasury regulations are proposed to be adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor regulations are proposed to be adopted pursuant to the authority contained in 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1185d, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Public Law 111–148, 124 Stat. 119, as amended by Public Law 111–152, 124 Stat. 1029; Secretary of Labor's Order 3–2010, 75 FR 55354 (September 10, 2010).

The Department of Health and Human Services regulations are proposed to be adopted pursuant to the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 147

Health care, Health insurance, Reporting and recordkeeping requirements, and State regulation of health insurance.

John Dalrymple,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Signed this 12th day of February, 2014.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: February 11, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Dated: February 14, 2014.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

Department of the Treasury

Internal Revenue Service

Accordingly, 26 CFR Part 54, as amended by the final rule titled, Ninety-Day Waiting Period Limitation and Technical Amendments to Certain Health Coverage Requirements Under the Affordable Care Act, published elsewhere in this issue of the **Federal Register**, is proposed to be further amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for Part 54 continues to read in part as follows:

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

Section 54.9815–2708 is also issued under 26 U.S.C. 9833.

* * * * *

■ **Par. 2.** Section 54.9815–2708 is amended by adding paragraph (c)(3)(iii) and a new Example 11 in paragraph (f) to read as follows:

§ 54.9815–2708 Prohibition on waiting periods that exceed 90 days.

* * * * *

(c) * * *

(3) * * *

(iii) *Limitation on orientation periods.* To ensure that an orientation period is not used as a subterfuge for the passage of time, or designed to avoid compliance with the 90-day waiting period limitation, an orientation period is permitted only if it does not exceed one month. For this purpose, one month is determined by adding one calendar month and subtracting one calendar day, measured from an employee's start date in a position that is otherwise eligible for coverage. For example, if an employee's start date in an otherwise eligible position is May 3, the last permitted day of the orientation period is June 2. Similarly, if an employee's start date in an otherwise eligible position is October 1, the last permitted day of the orientation period is October 31. If there is not a corresponding date in the next calendar month upon adding a calendar month, the last permitted day of the orientation period is the last day of the next calendar month. For example, if the employee's start date is January 30, the last permitted day of the orientation period is February 28 (or February 29 in a leap year). Similarly, if the employee's start date is August 31, the last permitted day of the orientation period is September 30.

* * * * *

(f) * * *

Example 11. (i) *Facts.* Employee *H* begins working full time for Employer *Z* on October 16. *Z* sponsors a group health plan, under which full time employees are eligible for coverage after they have successfully completed a one-month orientation period. *H* completes the orientation period on November 15.

(ii) *Conclusion.* In this *Example 11*, the orientation period is not considered a subterfuge for the passage of time and is not considered to be designed to avoid compliance with the 90-day waiting period limitation. Accordingly, plan coverage for *H* must begin no later than February 14, which is the 91st day after *H* completes the orientation period. (If the orientation period was more than one month, it would be considered to be considered a subterfuge for the passage of time and designed to avoid compliance with the 90-day waiting period limitation. Accordingly it would violate the rules of this section.)

* * * * *

Department of Labor

Employee Benefits Security Administration

29 CFR Chapter XXV

For the reasons stated in the preamble, the Department of Labor proposes to further amend 29 CFR part 2590, as amended by the final rule titled, Ninety-Day Waiting Period Limitation and Technical Amendments to Certain Health Coverage Requirements Under the Affordable Care Act, published elsewhere in this issue of the **Federal Register**, as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 3. The authority citation for Part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1185c, 1185d, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L.104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub.

L. 111–152, 124 Stat. 1029; Secretary of Labor's Order 3–2010, 75 FR 55354 (September 10, 2010).

■ 4. Section 2590.715–2708 is amended by adding paragraph (c)(3)(iii) and a new Example 11 in paragraph (f) to read as follows:

§ 2590.715–2708 Prohibition on waiting periods that exceed 90 days.

* * * * *

(c) * * *

(3) * * *

(iii) *Limitation on orientation periods.* To ensure that an orientation period is not used as a subterfuge for the passage of time, or designed to avoid compliance with the 90-day waiting period limitation, an orientation period is permitted only if it does not exceed one month. For this purpose, one month is determined by adding one calendar month and subtracting one calendar day, measured from an employee's start date in a position that is otherwise eligible for coverage. For example, if an employee's start date in an otherwise eligible position is May 3, the last permitted day of the orientation period is June 2. Similarly, if an employee's start date in an otherwise eligible position is October 1, the last permitted day of the orientation period is October 31. If there is not a corresponding date in the next calendar month upon adding a calendar month, the last permitted day of the orientation period is the last day of the next calendar month. For example, if the employee's start date is January 30, the last permitted day of the orientation period is February 28 (or February 29 in a leap year). Similarly, if the employee's start date is August 31, the last permitted day of the orientation period is September 30.

* * * * *

(f) * * *

Example 11. (i) *Facts.* Employee *H* begins working full time for Employer *Z* on October 16. *Z* sponsors a group health plan, under which full time employees are eligible for coverage after they have successfully completed a one-month orientation period. *H* completes the orientation period on November 15.

(ii) *Conclusion.* In this *Example 11*, the orientation period is not considered a subterfuge for the passage of time and is not considered to be designed to avoid compliance with the 90-day waiting period limitation. Accordingly, plan coverage for *H* must begin no later than February 14, which is the 91st day after *H* completes the orientation period. (If the orientation period was more than one month, it would be considered to be considered a subterfuge for the passage of time and designed to avoid compliance with the 90-day waiting period limitation. Accordingly it would violate the rules of this section.)

* * * * *

Department of Health and Human Services

45 CFR Subtitle A

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to further amend 45 CFR part 147, as amended by the final rule titled, Ninety-Day Waiting Period Limitation and Technical Amendments to Certain Health Coverage Requirements Under the Affordable Care Act, published elsewhere in this issue of the **Federal Register**, as set forth below:

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 5. The authority citation for part 147 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92).

■ 6. Section 147.116 is amended by—

■ A. Adding paragraph (c)(3)(iii); and

■ B. Adding Example 11 in paragraph (f).

The additions read as follows:

§ 147.116 Prohibition on waiting periods that exceed 90 days.

* * * * *

(c) * * *

(3) * * *

(iii) *Limitation on orientation periods.* To ensure that an orientation period is not used as a subterfuge for the passage of time, or designed to avoid compliance with the 90-day waiting period limitation, an orientation period is permitted only if it does not exceed one month. For this purpose, one month is determined by adding one calendar month and subtracting one calendar day, measured from an employee's start date in a position that is otherwise eligible for coverage. For example, if an employee's start date in an otherwise eligible position is May 3, the last permitted day of the orientation period is June 2. Similarly, if an employee's start date in an otherwise eligible position is October 1, the last permitted day of the orientation period is October 31. If there is not a corresponding date in the next calendar month upon adding a calendar month, the last permitted day of the orientation period is the last day of the next calendar month. For example, if the employee's start date is January 30, the last permitted day of the orientation period is February 28 (or February 29 in a leap year). Similarly, if the employee's start date is August 31, the last permitted day of the orientation period is September 30.

* * * * *

(f) * * *

Example 11. (i) *Facts.* Employee *H* begins working full time for Employer *Z* on October 16. *Z* sponsors a group health plan, under which full time employees are eligible for coverage after they have successfully completed a one-month orientation period. *H* completes the orientation period on November 15.

(ii) *Conclusion.* In this *Example 11*, the orientation period is not considered a subterfuge for the passage of time and is not considered to be designed to avoid compliance with the 90-day waiting period limitation. Accordingly, plan coverage for *H* must begin no later than February 14, which is the 91st day after *H* completes the orientation period. (If the orientation period was more than one month, it would be considered to be considered a subterfuge for the passage of time and designed to avoid compliance with the 90-day waiting period limitation. Accordingly it would violate the rules of this section.)

* * * * *

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Part V

The President

Notice of February 20, 2014—Continuation of the National Emergency With Respect to Libya

Federal Register
Vol. 79, No. 36
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Presidential Documents

Title 3—

The President

Notice of February 20, 2014

Continuation of the National Emergency With Respect to Libya

On February 25, 2011, by Executive Order 13566, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with an unusual and extraordinary threat to the national security and foreign policy of the United States. I found that Colonel Muammar Qadhafi, his government, and close associates had taken extreme measures against the people of Libya, including by using weapons of war, mercenaries, and wanton violence against unarmed civilians. In addition, there was a serious risk that Libyan state assets would be misappropriated by Qadhafi, members of his government, members of his family, or his close associates if those assets were not protected. The foregoing circumstances, the prolonged attacks, and the increased numbers of Libyans seeking refuge in other countries caused a deterioration in the security of Libya and posed a serious risk to its stability, thereby constituting an unusual and extraordinary threat to the national security and foreign policy of the United States.

We are in the process of winding down the sanctions in response to developments in Libya, including the fall of Qadhafi and his government and the establishment of a democratically elected government. We are working closely with the new Libyan government and with the international community to effectively and appropriately ease restrictions on sanctioned entities, including by taking action consistent with the U.N. Security Council's decision to lift sanctions against the Central Bank of Libya and two other entities on December 16, 2011. The situation in Libya, however, continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States and we need to protect against this threat and the diversion of assets or other abuse by certain members of Qadhafi's family and other former regime officials. Therefore, the national emergency declared on February 25, 2011, and the measures adopted on that date to deal with that emergency, must continue in effect beyond February 25, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13566.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
February 20, 2014.

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