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OFFICE OF THE FEDERAL REGISTER

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OFFICE OF THE FEDERAL REGISTER

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DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1704

[Docket No. RM–90–1]

Rules Implementing the Government in the Sunshine Act; Correction

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Correcting amendments.

SUMMARY: The Defense Nuclear Facilities Safety Board (Board) published a document in the **Federal Register** on March 7, 1991 (56 FR 9609), implementing the provisions of the Government in the Sunshine Act. Subsequently, the Fiscal Year 2013 National Defense Authorization Act further amended the Atomic Energy Act of 1954, changing and renumbering the Board's enabling legislation. This document corrects the final regulations by changing the referenced sections in the Board's rules implementing the Government in the Sunshine Act.

DATES: Effective July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Richard N. Reback, Acting General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (202) 694–7000.

SUPPLEMENTARY INFORMATION: This is a summary of the Board's changes to its rules implementing the Government in the Sunshine Act.

List of Subjects in 10 CFR Part 1704 Sunshine Act

Accordingly, 10 CFR Part 1704 is amended by making the following correcting amendment:

PART 1704—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

■ 1. The authority citation for part 1704 continues to read as follows:

Authority: 5 U.S.C. 552b; 42 U.S.C. 2286, 2286b(c).

■ 2. In § 1704.4(c):
■ a. Redesignate paragraphs (c)(1) and (2) as paragraphs (c)(1)(i) and (ii), respectively;
■ b. Redesignate paragraph (c) introductory text as paragraph (c)(1); and
■ c. Designate the undesignated text as paragraph (c)(2) and revise it.

The revision reads as follows:

§ 1704.4 Grounds on which meetings may be closed or information may be withheld.

* * * * *

(c) * * *

(2) This exemption applies to Board meetings, or portions of meetings, involving deliberations regarding recommendations which, under 42 U.S.C. 2286d(b) and (h)(3), may not be made publicly available until after they have been received by the Secretary of Energy or the President, respectively; Defense Nuclear Facilities Safety Board.

* * * * *

Richard N. Reback,
Acting General Counsel.

[FR Doc. 2014–16778 Filed 7–18–14; 8:45 am]
BILLING CODE 3670–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 336 and 390

RIN 3064–AD98

Transferred OTS Regulations and FDIC Regulations Regarding Post-Employment Activities of Senior Examiners

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is adopting a final rule ("Final Rule") to rescind and remove regulations transferred to the FDIC following dissolution of the former Office of Thrift Supervision ("OTS") in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Section 316(b)(3) of the Dodd-Frank Act provided that the former OTS rules that were transferred to the FDIC would be enforceable by or against the FDIC until they were modified, terminated, set aside, or superseded in accordance with applicable law by the FDIC, by any court of competent jurisdiction, or by operation of law.

DATES: The Final Rule is effective on August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Robert J. Fagan, Ethics Program Manager, Legal Division (703) 562–2704 or *rfagan@fdic.gov*; Michelle Borzillo, Senior Counsel, Legal Division (703) 562–6083 or *mborzillo@fdic.gov*; or Randy Thomas, Counsel, Legal Division (703) 562–6454 or *ranthomas@fdic.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act, 12 U.S.C. 5411, the powers, duties, and functions of the former OTS were divided among the FDIC as to State savings associations, the Office of the Comptroller of the Currency ("OCC") as to Federal savings associations, and the Board of Governors of the Federal Reserve System as to savings and loan holding companies.[1] Section 316(b) of the Dodd-Frank Act, 12 U.S.C. 5414(b), provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such regulatory issuances were in effect on the day before the transfer date, they continue in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

The Dodd-Frank Act directed the FDIC and OCC to consult with one another and to publish a list of continued OTS regulations to be

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

enforced by each respective agency that would continue to remain in effect until the appropriate successor agency modified or removed the regulations in accordance with the applicable laws. The list was published by the FDIC and OCC as a Joint Notice in the **Federal Register** on July 6, 2011, and shortly thereafter, the FDIC published its transferred OTS regulations as new FDIC regulations in 12 CFR parts 390 and 391. When it republished the transferred OTS regulations as new FDIC regulations, the FDIC specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC rules, amending them, or rescinding them, as appropriate.

Further, section 312(c) of the Dodd-Frank Act amended the definition of "appropriate Federal banking agency" contained in section 3(q) of the FDI Act, to add State savings associations to the list of entities for which the FDIC is designated the "appropriate Federal banking agency." As a result, when the FDIC acts as the designated "appropriate Federal banking agency" (or under similar terminology) for State savings associations, as it does today, it has the authority to issue, modify, and rescind regulations involving such associations as well as for State nonmember banks and insured branches of foreign banks.[2]

II. Proposed Rule

A. Removal of Part 390, Subpart A (Former OTS 12 CFR Part 507)

On September 4, 2013, the FDIC published a notice of proposed rulemaking ("NPR" or "Proposed Rule") regarding the removal of part 390, subpart A (formerly OTS part 507), which governs post-employment activities of senior examiners.[3] The former OTS rule was transferred to the FDIC with only nominal changes. The NPR proposed removing part 390, subpart A from the CFR in an effort to streamline FDIC's rules and eliminate unnecessary regulations. As discussed in the Proposed Rule, the FDIC carefully reviewed the transferred rule, part 390, subpart A, and compared it with part 336, an FDIC regulation that existed before the transfer of part 390, subpart A and that continues to remain in effect today. Like the transferred rule, part 336 governs post-employment activities of senior examiners.[4] Although the two rules were substantively the same, the FDIC noted that part 336 was more appropriate because it focuses on the service of senior examiners of all insured depository institutions, while the part 390, subpart A rules apply only to senior examiners of savings associations and their holding companies.[5]

B. Amendments to Part 336

In addition, the Proposed Rule proposed to revise 12 CFR part 336, subpart B by deleting a reference to the "Office of Thrift Supervision" in the definition of "Federal banking agency" described in part 336.3(e) and adding the words "predecessors or" in front of the word "successors". As stated in the Proposed Rule, the FDIC believes this revision will help avoid any public confusion by deleting the reference to the former Office of Thrift Supervision while retaining the indirect reference to that former agency by adding a reference to "predecessors" to the definition of "Federal Banking agency". Further, by including predecessor agencies of the FDIC as Federal banking agencies for purposes of this part, the proposed rule would restrict a potential employee who had been associated with a State savings association from future FDIC employment if the potential employee had been subject to a final enforcement action by the former OTS. *See* 12 CFR 336.4(a)(2) and 336.5(a)(2).[6]

III. Comments

The FDIC issued the NPR with a 60-day comment period, which closed on November 4, 2013. The FDIC received no comments on its Proposed Rule, and consequently the Final Rule is adopted as proposed without any changes.

IV. Explanation of the Final Rule

As discussed in the NPR, part 390, subpart A is substantively similar to part 336, and the designation of part 336 as the single authority for the post-employment activities of FDIC senior examiners will serve to streamline the FDIC's rules and eliminate unnecessary regulations. To that effect, the Final Rule removes and rescinds 12 CFR part 390, subpart A in its entirety.

Consistent with the Proposed Rule, the Final Rule also amends section 336.3(e) to revise 12 CFR part 336, subpart B by deleting a reference to the "Office of Thrift Supervision" in the definition of "Federal banking agency" described in part 336.3(e) and adding the words "predecessors or" in front of the word "successors".

V. Administrative Law Matters

A. Paperwork Reduction Act

Pursuant to the Proposed Rule, the FDIC will rescind and remove from its regulations 12 CFR part 390, subpart A. This rule was transferred with only nominal changes to the FDIC from the OTS when the OTS was abolished by Title III of the Dodd-Frank Act. Part 390, subpart A is redundant and largely duplicative of the FDIC's rule at part 336 regarding the one-year post-employment restrictions for senior examiners. Removing part 390, subpart A and revising the definition of *Federal banking agency* in part 336.3(e) will not involve any new collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information collection has been submitted to the Office of Management and Budget for review.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (RFA), requires that each federal agency either (1) certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities, or (2) prepare an initial regulatory flexibility analysis of the rule and publish the analysis for comment. Twelve CFR part 336, subpart C was issued as part of an interagency rulemaking designed to implement section 10(k) of the FDI Act, 12 U.S.C. 1820(k). This rule has a limited scope: It imposes post-employment restrictions on certain senior examiners employed by the FDIC and does not impose any obligations or restrictions on banking organizations, including small banking organizations. On this basis, the FDIC certifies that this rule revision will not have a significant impact on a substantial number of small entities, within the meaning of those terms as used in the RFA.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. In the NPR, the FDIC invited comments on whether the Proposed Rule was clearly stated and effectively organized, and how the FDIC might make it easier to understand. Although the FDIC did not receive any comments, the FDIC sought to present the Final Rule in a simple and straightforward manner.

List of Subjects

12 CFR Part 336

Conflict of interest.

[2] 12 U.S.C. 5412(b)–(c).

[3] 78 FR 54401, 54403 (Sept. 4, 2013).

[4] *Id.* at 54402.

[5] *Id.*

[6] 78 FR at 54406.

12 CFR Part 390

Banks and banking, Conflicts of interest, Government employees, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends 12 CFR parts 336 and 390 as set forth below:

PART 336—FDIC EMPLOYEES

Subpart B—[Amended]

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

Authority: 12 U.S.C. 1819(Tenth), 1822(f).

■ 2. In § 336.3, revise paragraph (e) to read as follows:

§ 336.3 Definitions.

* * * * *

(e) *Federal banking agency* means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, or their predecessors or successors.

* * * * *

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 3. The authority citation for part 390 is revised to read as follows:

Authority: 12 U.S.C. 1819.

Subpart B also issued under *12 U.S.C. 1818.*

Subpart C also issued under *5 U.S.C. 504*; 554–557; *12 U.S.C. 1464*; 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; *15 U.S.C. 78 l*; 78o–5; 78u–2; *28 U.S.C. 2461* note; *31 U.S.C. 5321*; *42 U.S.C. 4012*a.

Subpart D also issued under *12 U.S.C. 1817*; 1818; 1820; *15 U.S.C. 78 l.*

Subpart E also issued under *12 U.S.C. 1813*; 1831m; *15 U.S.C. 78.*

Subpart F also issued under *5 U.S.C. 552*; 559; *12 U.S.C. 2901 et seq.*

Subpart G also issued under *12 U.S.C. 2810 et seq.*, 2901 *et seq.*; *15 U.S.C. 1691*; *42 U.S.C. 1981*, 1982, 3601–3619.

Subpart I also issued under *12 U.S.C. 1831*x.

Subpart J also issued under *12 U.S.C. 1831*p–1.

Subpart K also issued under 12 U.S.C. 1817; 1818; *15 U.S.C. 78*c; *78 l.*

Subpart L also issued under *12 U.S.C. 1831*p–1.

Subpart M also issued under *12 U.S.C. 1818.*

Subpart N also issued under *12 U.S.C. 1821.*

Subpart O also issued under *12 U.S.C. 1828.*

Subpart P also issued under *12 U.S.C. 1470*; 1831e; 1831n; 1831p–1; 3339.

Subpart Q also issued under *12 U.S.C. 1462*; 1462a; 1463; 1464.

Subpart R also issued under *12 U.S.C. 1463*; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under *12 U.S.C. 1462*; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; *15 U.S.C. 78*b; 78 *l*; 78m; 78n; 78p; 78q; 78w; *31 U.S.C. 5318*; *42 U.S.C. 4106.*

Subpart T also issued under *12 U.S.C. 1462a*; 1463; 1464; *15 U.S.C. 78*c; 78 *l*; 78m; 78n; 78w.

Subpart U also issued under *12 U.S.C. 1462a*; 1463; 1464; *15 U.S.C. 78*c; 78 *l*; 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.

Subpart V also issued under *12 U.S.C. 3201*–3208.

Subpart W also issued under *12 U.S.C. 1462a*; 1463; 1464; *15 U.S.C. 78*c; 78 *l*; 78m; 78n; 78p; 78w.

Subpart X also issued under *12 U.S.C. 1462*; 1462a; 1463; 1464; 1828; 3331 *et seq.*

Subpart Y also issued under *12 U.S.C. 1831o.*

Subpart Z also issued under *12 U.S.C. 1462*; 1462a; 1463; 1464; 1828 (note).

Remove from the authority citation for part 390, the sentence "Subpart A also issued under 12 U.S.C. 1820."

Subpart A—[Removed and Reserved]

■ 3. Remove and reserve subpart A, consisting of §§ 390.1 through 390.5.

Dated at Washington, DC, this 15th day of July 2014.

By order of the Board of Directors, Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–16974 Filed 7–18–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 346 and 390

RIN 3064–AE09

Transferred OTS Regulations and FDIC Regulations Regarding Disclosure and Reporting of CRA-Related Agreements

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is adopting a final rule ("Final Rule") to rescind and remove certain regulations transferred to the FDIC from the Office of Thrift Supervision ("OTS") on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). The Dodd-Frank Act provided that the former OTS rules that were transferred to the FDIC would be enforceable by or against the FDIC until they were modified, terminated, set aside, or superseded in accordance with applicable law by the FDIC, by any court of competent jurisdiction, or by operation of law. The requirements for State savings associations are substantively similar to existing FDIC regulations.

DATES: The Final Rule is effective on August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Patience Singleton, Senior Policy Analyst, Division of Depositor and Consumer Protection, (202) 898–6859; Jennifer Maree, Counsel, Legal Division, (202) 898–6543; Richard M. Schwartz, Counsel, Legal Division, (202) 898–7424.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Dodd-Frank Act

The Dodd-Frank Act [1] provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act, codified at 12 U.S.C. 5411, the powers, duties, and functions formerly performed by the OTS were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency ("OCC"), as to Federal savings associations, and the Board of Governors of the Federal Reserve System ("FRB"), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(b), provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the transfer date, they continue to be in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(c), further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations that would be enforced by the FDIC and

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

the OCC, respectively. On June 14, 2011, the FDIC's Board of Directors approved a "List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act." This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[2]

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act, codified at 12 U.S.C. 5412(b)(2)(B)(i)(II), granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the Federal Deposit Insurance Act ("FDI Act") and other laws as the "appropriate Federal banking agency" or under similar statutory terminology. Section 312(c) of the Dodd-Frank Act amended the definition of "appropriate Federal banking agency" contained in section 3(q) of the FDI Act, 12 U.S.C. 1813(q), to add State savings associations to the list of entities for which the FDIC is designated as the "appropriate Federal banking agency." As a result, when the FDIC acts as the designated "appropriate Federal banking agency" (or under similar terminology) for State savings associations, as it does here, the FDIC is authorized to issue, modify and rescind regulations involving such associations, as well as for State nonmember banks and insured branches of foreign banks.

As noted, on June 14, 2011, pursuant to this authority, the FDIC's Board of Directors reissued and redesignated certain transferring regulations of the former OTS. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[3] When it republished the transferred OTS regulations as new FDIC regulations, the FDIC specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC rules, amending them, or rescinding them, as appropriate.

One of the OTS rules transferred to the FDIC governs OTS oversight of disclosure and reporting of CRA-related agreements in the context of State savings associations. The OTS rule, formerly found at 12 CFR part 533, was transferred to the FDIC with only minor nonsubstantive changes and is now found in the FDIC's rules at part 390, subpart H, entitled "Disclosure and Reporting of CRA-Related Agreements." Before the transfer of the OTS rules and continuing today, the FDIC's rules contained part 346, also entitled "Disclosure and Reporting of CRA-Related Agreements," a rule governing FDIC oversight of disclosure and reporting of CRA-related agreements with respect to IDIs for which the FDIC has been designated the appropriate Federal banking agency. After careful review and comparison of part 390, subpart H and part 346, the FDIC proposes to rescind part 390, subpart H, because, as discussed below, it is substantively redundant to existing part 346 and simultaneously we propose to make technical conforming edits to our existing rule.

II. Proposed Rule

A. Removal of Part 390, Subpart H (Former OTS 12 CFR Part 533)

The FDIC issued a Notice of Proposed Rulemaking ("NPR" or "Proposed Rule"), which was published in the **Federal Register** on December 19, 2013, regarding the removal of part 390, subpart H, which governs disclosure and reporting of all CRA-related agreements for State savings associations.[4] The former OTS rule was transferred to the FDIC with only nominal changes. The NPR proposed removing part 390, subpart H from the CFR in an effort to streamline FDIC regulations for all FDIC-supervised institutions. As discussed in the Proposed Rule, the FDIC carefully reviewed the transferred rule, part 390, subpart H, and compared it with part 346, an FDIC regulation that existed before the transfer of part 390, subpart H and that continues to remain in effect today. Like the transferred rule, part 346 governs disclosure and reporting of all CRA-related agreements for State nonmember insured banks and their subsidiaries. Although the two rules were substantively the same, minor technical and conforming amendments were proposed.[5]

B. Amendments to Part 346

The Proposed Rule proposed to modify the scope of part 346 to include State savings associations and their subsidiaries to conform to and reflect the scope of the FDIC's current supervisory responsibilities as the appropriate Federal banking agency. The Proposed Rule also proposed to add a new subsection (m), which would define "State savings association" as having "the same meaning as in section 3(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(3))." In finalizing these proposals, oversight of disclosure and reporting of CRA-related agreements in part 346 would apply to all FDIC-supervised institutions, including State savings associations, and part 390, subpart H would be removed because it is largely redundant of those rules found in part 346. Rescinding part 390, subpart H will serve to streamline the FDIC's rules and eliminate unnecessary regulations.

III. Comments

The FDIC issued the NPR with a 60-day comment period, which closed on February 18, 2014. The FDIC received no comments on its Proposed Rule, and consequently the Final Rule is adopted as proposed without any changes.

IV. Explanation of the Final Rule

As discussed in the NPR, Part 390, Subpart H is substantively similar to Part 346, and the designation of Part 346 as a single authority of disclosure and reporting of CRA-related agreements for all FDIC-supervised institutions will serve to streamline the FDIC's rules and eliminate unnecessary regulations. To that effect, the Final Rule removes and rescinds 12 CFR Part 390, Subpart H in its entirety.

Consistent with the Proposed Rule, the Final Rule also amends section 346.1 to modify the scope of Part 346 to include State savings associations and their subsidiaries to conform to and reflect the scope of the FDIC's current supervisory responsibilities as the appropriate Federal banking agency. The Final Rule also adds a new subsection (m), which would define "State savings association" as having "the same meaning as in section 3(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(3))." The current definition occupying subsection (m) ("Term of Agreement"), will be moved to a newly created subsection (n) within section 346.11.

V. Administrative Law Matters

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act ("PRA") of 1995, 44 U.S.C. 3501–3521, 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. The information collections contained in Part 346 are cleared by OMB under the FDIC's "CRA Sunshine" information collection (OMB No. 3064–0139). The FDIC's burden estimates were updated in connection with the collection's 2012

[2] 76 FR 39247 (July 6, 2011).

[3] 76 FR 47652 (Aug. 5, 2011).

[4] 78 FR 76768 (Dec. 19, 2013).

[5] 78 FR 76770.

renewal to include State savings associations transferred from the OTS to the FDIC. The FDIC reviewed its burden estimates for the collection at the time it assumed responsibility for supervision of State savings associations transferred from the OTS and determined that no changes to the burden estimates were necessary. This Final Rule does not modify the FDIC's existing collection and does not involve any new collections of information pursuant to the PRA.

The Final Rule rescinds and removes from FDIC regulations Part 390, Subpart H. This rule was transferred with only nominal changes to the FDIC from the OTS when the OTS was abolished by Title III of the Dodd-Frank Act. Part 390, Subpart H is largely redundant of the FDIC's existing Part 346 regarding disclosure and reporting of CRA-related agreements. The Final Rule amends sections 346.1 and 346.11 to include State savings associations and their subsidiaries within the scope of Part 346 and to define "State savings association," respectively. These measures clarify that State savings associations, as well as State nonmember banks are subject to Part 346. Since these State savings associations were already covered by the OTS rule, these provisions of the Final Rule will not involve any new collections of information under the PRA or impact current burden estimates. Based on the foregoing, no information collection request has been submitted to the OMB for review.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, generally requires an agency to consider whether a final rule will have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $500 million).[6] Pursuant to section 605(b) of the RFA, a final regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule. For the reasons provided below, the FDIC certifies that the Final Rule does not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

As discussed in the notice of proposed rulemaking, Part 390, Subpart H was transferred from OTS Part 533, which governed disclosure and reporting of CRA-related agreements. OTS Part 533 had been in effect since 2001, and all State savings associations were required to comply with it. Because it is redundant of existing Part 346 of the FDIC's rules, the FDIC proposes rescinding and removing Part 390, Subpart H. As a result, all FDIC-supervised institutions—including State savings associations and their subsidiaries—would be required to comply with Part 346 if they are in CRA-related agreements. Because all State savings associations and their subsidiaries have been required to comply with substantially similar disclosure and reporting rules if they engaged in CRA-related agreements since 2001, today's Final Rule has no significant economic impact on any State savings association.

C. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the Final Rule is not a "major rule" within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), 5 U.S.C. 801 *et seq.*

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. In the NPR, the FDIC invited comments on whether the Proposed Rule was clearly stated and effectively organized, and how the FDIC might make it easier to understand. Although the FDIC did not receive any comments, the FDIC sought to present the Final Rule is a simple and straightforward manner.

E. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA"), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured depository institutions.[7] The FDIC completed the last comprehensive review of its regulations under EGRPRA in 2006 and is commencing the next decennial review, which is expected to be completed by 2016. The NPR solicited comments on whether the proposed rescission of Part 390, Subpart H and amendments to Part 346 would impose any outdated or unnecessary regulatory requirements on insured depository institutions. No comments on this issue were received. Upon review, the FDIC does not believe that Part 346, as amended by the Final Rule, imposes any outdated or unnecessary regulatory requirements on any insured depository institutions.

List of Subjects

12 CFR Part 346

Banks and banking, Disclosure and reporting of CRA-related agreements, Savings associations.

12 CFR Part 390

Disclosure and reporting of CRA-related agreements.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends 12 CFR parts 346 and 390 as set forth below:

■ 1. Revise part 346 to read as follows:

PART 346—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

Sec.

Authority: 12 U.S.C. 1831y.

PART 346—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

§ 346.1 Purpose and scope of this part.

(a) *General.* This part implements section 711 of the Gramm-Leach-Bliley Act (12 U.S.C. 1831y). That section requires any nongovernmental entity or person, insured depository institution, or affiliate of an insured depository institution that enters into a covered agreement to—

(1) Make the covered agreement available to the public and the appropriate Federal banking agency; and

(2) File an annual report with the appropriate Federal banking agency concerning the covered agreement.

(b) *Scope of this part.* The provisions of this part apply to—

(1) State nonmember insured banks;

(2) Subsidiaries of state nonmember insured banks;

(3) Nongovernmental entities or persons that enter into covered

[6] 5 U.S.C. 601 *et seq.*

[7] Public Law 104–208, 110 Stat. 3009 (Sept. 30, 1996).

agreements with any company listed in paragraphs (b)(1), (2), (4) and (5) of this section.

(4) State savings associations; and

(5) Subsidiaries of State savings associations.

(c) *Relation to Community Reinvestment Act.* This part does not affect in any way the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) or the FDIC's Community Reinvestment regulation found at 12 CFR part 345, or the FDIC's interpretations or administration of that Act or regulation.

(d) *Examples.* (1) The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

(2) Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issues that may arise in this part.

§ 346.11 Other definitions and rules of construction used in this part.

(a) *Affiliate.* "Affiliate" means—

(1) Any company that controls, is controlled by, or is under common control with another company; and

(2) For the purpose of determining whether an agreement is a covered agreement under § 346.2, an "affiliate" includes any company that would be under common control or merged with another company on consummation of any transaction pending before a Federal banking agency at the time—

(i) The parties enter into the agreement; and

(ii) The NGEP that is a party to the agreement makes a CRA communication, as described in § 346.3.

(b) *Control.* "Control" is defined in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)).

(c) *CRA affiliate.* A "CRA affiliate" of an insured depository institution is any company that is an affiliate of an insured depository institution to the extent, and only to the extent, that the activities of the affiliate were considered by the appropriate Federal banking agency when evaluating the CRA performance of the institution at its most recent CRA examination prior to the agreement. An insured depository institution or affiliate also may designate any company as a CRA affiliate at any time prior to the time a covered agreement is entered into by informing the NGEP that is a party to the agreement of such designation.

(d) *CRA public file.* "CRA public file" means the public file maintained by an insured depository institution and described in 12 CFR 345.43.

(e) *Executive officer.* The term "executive officer" has the same meaning as in § 215.2(e)(1) of the Board of Governors of the Federal Reserve System's Regulation O (12 CFR 215.2(e)(1)).

(f) *Federal banking agency; appropriate Federal banking agency.* The terms "Federal banking agency" and "appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(g) *Fiscal year.* (1) The fiscal year for a NGEP that does not have a fiscal year shall be the calendar year.

(2) Any NGEP, insured depository institution, or affiliate that has a fiscal year may elect to have the calendar year be its fiscal year for purposes of this part.

(h) *Insured depository institution.* "Insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(i) *NGEP.* "NGEP" means a nongovernmental entity or person.

(j) *Nongovernmental entity or person* —(1) *General.* A "nongovernmental entity or person" is any partnership, association, trust, joint venture, joint stock company, corporation, limited liability corporation, company, firm, society, other organization, or individual.

(2) *Exclusions.* A nongovernmental entity or person does not include—

(i) The United States government, a state government, a unit of local government (including a county, city, town, township, parish, village, or other general-purpose subdivision of a state) or an Indian tribe or tribal organization established under Federal, state or Indian tribal law (including the Department of Hawaiian Home Lands), or a department, agency, or instrumentality of any such entity;

(ii) A federally-chartered public corporation that receives Federal funds appropriated specifically for that corporation;

(iii) An insured depository institution or affiliate of an insured depository institution; or

(iv) An officer, director, employee, or representative (acting in his or her capacity as an officer, director, employee, or representative) of an entity listed in paragraphs (j)(2)(i) through (iii) of this section.

(k) *Party.* The term "party". The authority citation for part 405 continues to read as follows: With respect to a covered agreement means each NGEP and each insured depository institution or affiliate that entered into the agreement.

(l) *Relevant supervisory agency.* The "relevant supervisory agency" for a covered agreement means the appropriate Federal banking agency for—

(1) Each insured depository institution (or subsidiary thereof) that is a party to the covered agreement;

(2) Each insured depository institution (or subsidiary thereof) or CRA affiliate that makes payments or loans or provides services that are subject to the covered agreement; and

(3) Any company (other than an insured depository institution or subsidiary thereof) that is a party to the covered agreement.

(m) *State savings association.* "State savings association" has the same meaning as in section 3(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(3)).

(n) *Term of agreement.* An agreement that does not have a fixed termination date is considered to terminate on the last date on which any party to the agreement makes any payment or provides any loan or other resources under the agreement, unless the relevant supervisory agency for the agreement otherwise notifies each party in writing.

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

Subpart H—Disclosure and Reporting of CRA-Related Agreements

■ 2. The authority citation for part 390 continues to read as follows:

Authority: 12 U.S.C. 1831y.

Subpart H—[Removed and Reserved]

■ 3. Remove and reserve subpart H consisting of §§ 390.160 through 390.170.

Dated at Washington, DC, this 15th day of July 2014.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–16973 Filed 7–18–14; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR 5395–F–02]

RIN 2502–AI92

Federal Housing Administration (FHA): Refinancing an Existing Cooperative Under Section 207 Pursuant to Section 223(f) of the National Housing Act

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations governing the eligibility for FHA insurance of mortgages used for the purchase or refinancing of existing multifamily housing projects. Although the statutory language authorizing such insurance does not distinguish between rental or cooperative multifamily projects, HUD's regulations limit FHA insurance to existing rental projects. Given the significant needs identified for multifamily cooperative financing, the Department determined that it was appropriate to reconsider the regulatory imposed limitation. Accordingly, this rule revises HUD's regulations to enable existing multifamily cooperative project owners to obtain FHA insurance for the refinancing of existing indebtedness.

DATES: *Effective Date:* August 20, 2014.

FOR FURTHER INFORMATION CONTACT: James Carey, Director, Policy Division, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6152, Washington, DC 20410–8000; telephone number 202–708–1142 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. The February 1, 2011, Proposed Rule

On February 1, 2011, at 76 FR 5518, HUD proposed to revise its regulations governing the eligibility for FHA insurance of mortgages used for the purchase or refinancing of existing multifamily housing projects. Under section 223(f)(1) of the National Housing Act (12 U.S.C. 1715n(f)(1)) (NHA), FHA is authorized to insure mortgages executed in connection with the purchase or refinancing of an existing multifamily housing project. The existing multifamily housing project to be purchased or refinanced may have been financed originally with conventional debt, equity, or FHA insured mortgages. The section 223(f) program insures lenders against loss on mortgage defaults and allows for long term mortgages (up to 35 years). In general, a project is eligible for section 223(f) mortgage insurance if the sponsor can demonstrate that there is a definite market demand, and that the project is economically self-sufficient.

HUD's regulations implementing the section 223(f) program are codified at 24 CFR part 207 (entitled "Multifamily Housing Mortgage Insurance"). Section 207.1 of these regulations cross references to the eligibility requirements for existing projects contained in 24 CFR 200.24 and makes the eligibility requirements applicable to multifamily project mortgages insured under section 24 CFR part 207.[1] Section 200.24 provides that "a mortgage financing the purchase or refinance of an existing *rental* housing project . . . may be insured pursuant to the provisions of section 223(f) of the [National Housing] Act . . ." (emphasis added). Thus, while the statutory language of section 223(f) authorizes FHA mortgage insurance for existing multifamily housing projects, irrespective of whether the project is for rental or cooperative housing, HUD's regulations limit section 223(f) financing to rental housing.

Lack of financing has recently been a particular problem for multifamily cooperatives, which contend with legal restrictions on cooperative share transfers and requirements for approval by the board of a cooperative for some membership or operational changes. In addition, "affordable" cooperatives, which have low initial purchase prices, limited maintenance fees, and a cap on unit resale prices, face further challenges because the potential for generating new income through turnover of units and additional assessments is low.

Through the February 11, 2011 proposed rule, HUD proposed to remove the regulatory limitation to facilitate the refinancing of cooperatives through mortgage insurance issued under section 223(f) of the NHA to both provide needed support to this cooperative financing market sector and further HUD's mission of preserving affordable housing. The changes were proposed to assist eligible cooperative projects to obtain refinancing to make necessary repairs and/or consolidate more expensive outstanding debt, thereby preserving affordable housing stock. Interested readers are referred to the preamble of the February 1, 2011, proposed rule for additional information regarding the proposed regulatory changes.

B. This Final Rule

This final rule follows publication of the February 1, 2011, proposed rule and takes into consideration the public comments received in response to the proposed rule. By the close of the public comment period on April 4, 2011, HUD received five public comments on the proposed rule.

Comments were submitted by individuals, a local housing preservation and development agency, a national association representing the interests of housing cooperatives, and a national nonprofit organization focused on manufactured housing ownership. The majority of comments expressed support for the proposed regulatory changes, with a few commenters raising questions about the rule or offering suggestions for additional amendments. After careful consideration of the issues raised by the commenters, HUD has decided to adopt the proposed regulatory amendments without change.

The final regulatory text provides as did the proposed regulatory text that a mortgage financing the purchase or refinance of an existing rental housing project or refinance of the existing debt of an existing cooperative project under section 207 of the NHA, or for refinancing the existing debt of an existing nursing home, intermediate care facility, assisted living facility, or board and care home, or any combination thereof, under section 232 of the NHA, may be insured pursuant to provisions of section 223(f) of the NHA and such terms and conditions established by HUD. HUD's risk management practices for the financing or refinancing of mortgages for all projects covered by section 207 of the National Housing Act, and which, as a result of this rule, would now include cooperatives provides for more careful review of projects that exceed $100 million.

The following section of this preamble summarizes the significant issues raised by the commenters on the February 1, 2011, proposed rule and HUD's responses to these comments.

[1] The regulations codified at 24 CFR part 200 (entitled "Introduction to FHA Programs") set forth, in a single location of the Code of Federal Regulations, requirements that are generally applicable to FHA programs. Section 207.1 cross-references to the eligibility requirements set forth in 24 CFR part 200, subpart A. Section 200.24 is the relevant eligibility provision for existing multifamily projects in subpart A of 24 CFR part 200.

II. Discussion of Public Comments Received on the February 1, 2011, Proposed Rule

Comment: Include section 223(f) cooperative refinancing in the Multifamily Accelerated Processing (MAP) system. One commenter suggested that, in order to expedite processing time, HUD allow section 223(f) refinancing for housing cooperatives to be processed under the Multifamily Accelerated Processing (MAP) system. MAP is a processing procedure designed to establish national standards for approved lenders to prepare, process, and submit loan applications for FHA multifamily mortgage insurance.

HUD Response. HUD agrees that processing cooperative refinance transactions under MAP would expedite the processing of these transactions. Section 223(f) purchase loan transactions are already eligible for processing under MAP and HUD will consider including cooperative refinance transactions for processing under MAP.

Comment: Expand regulation to include manufactured housing cooperatives. One commenter urged HUD to include cooperatives formed by homeowners in manufactured home communities to be eligible for FHA mortgage insurance upon refinancing their existing blanket mortgage debt covering the land and infrastructure improvements. The commenter wrote that, consistent with the mission of FHA, manufactured housing cooperatives expand opportunities for low and moderate income homebuyers. The commenter wrote that resident ownership of manufactured home communities has proven critical to providing long-term housing security to homeowners.

HUD Response. HUD declines to accept the commenter's recommendation. It is HUD's long standing policy to not use Section 223(f) mortgage insurance for the refinancing of manufactured housing parks. The Section 223(f) program structure is not tailored to accommodate the unique risks and real estate features associated with financing for manufactured home communities. Such properties are appropriately served by conventional financing sources which can tailor loan terms and underwriting requirements to address these risks and real estate features. HUD notes that manufactured home cooperatives as well as other manufactured homeownership transactions are eligible under the Section 207 mortgage insurance program when substantial rehabilitation or new construction is proposed.

Comment: Questions regarding FHA programs. Two commenters raised concerns that supporting cooperatives by providing government support for refinancing could negatively affect other parts of the housing market. The commenters requested that HUD provide some basic information on such as the following issues: Where the money is coming from, who will pay for the mortgage insurance, and whether lenders could increase their rates during the life of the loan.

HUD Response. HUD disagrees that providing refinancing for cooperatives could negatively affect other parts of the housing market. Providing refinancing for cooperatives helps preserve affordable housing stock in the nation. With respect to basic information about Section 223(f) program, information about this program can be found at the following HUD Web site: *http://portal.hud.gov:80/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/purchrefi223f.* This Web site provides detailed information about the Section 223(f) program,

III. Costs and Benefits

In providing for refinancing for cooperatives under the Section 223(f) program, the costs incurred by FHA and the borrower are costs typical of those associated with HUD's multifamily insurance programs. The documents and transactions for refinancing cooperatives are similar to those for FHA-insured multifamily programs, and the costs for the borrower are those that typically occur with closing the loan and document transaction costs. The costs for FHA include those pertaining to underwriting applications, overseeing construction advances, monitoring program compliance, collecting mortgage insurance premiums and processing claims for insurance. Typically these costs are offset by mortgage insurance premiums received under the program.

Additionally, with respect to costs and risks, and as noted earlier in this preamble, HUD's risk management practices for the financing or refinancing of mortgages for all projects covered by section 207 of the National Housing Act, and which, as a result of this rule, now includes cooperatives provides for more careful review of projects for which financing or refinancing exceed $100 million.

While the costs are similar to those involved in FHA multifamily housing transactions, the benefits in allowing refinancing for cooperatives helps to preserve affordable housing stock in the U.S. Refinancing the existing underlying mortgage of a cooperative is considered a preferred alternative than expending a cooperative's reserve fund, which would have a negative impact on the cooperative's financial strength. Refinancing would help to avoid the need for a special assessment (often needed for a large emergency repair such as a leaking roof), which benefits the residents of a cooperative. If the cooperative's reserve fund is too low, the residents must pay the cost of the assessment, and this could harm low-to-moderate income occupants, especially those on a fixed income.

IV. Findings and Certifications

Executive Order 13563, Regulatory Review

The President's Executive Order (EO) 13563, entitled "Improving Regulation and Regulatory Review," was signed by the President on January 18, 2011, and published on January 21, 2011, at 76 FR 3821. This Executive Order requires executive agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned." Section 4 of the EO, entitled "Flexible Approaches," provides, in relevant part, that where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

HUD submits that the changes made by this rule are consistent with the directions of Executive Order 13563 as the rule extends refinancing to cooperatives, which increases affordable multifamily housing options under the Section 207 program. Refinancing a cooperative through FHA mortgage insurance promotes HUD's mission to increase the supply of affordable housing by assisting eligible cooperative projects to obtain refinancing to make necessary repairs and/or consolidate outstanding debt, thereby serving to preserve the affordable housing stock.

Regulatory Flexibility Act—Small Business

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule

does not add or modify any economic costs imposed on participants in the FHA multifamily mortgage insurance programs. Rather, the rule eliminates a current regulatory barrier to program eligibility and expand participation in these programs. As discussed earlier in this preamble, section 223(f) of the NHA authorizes FHA mortgage financing for existing multifamily projects, irrespective of whether the project provides rental or cooperative housing. The rule revises the regulations governing eligibility for financing under section 223(f) to enable owners of multifamily cooperative housing projects to refinance their existing mortgage debt with FHA insurance. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment was made at the proposed rule stage, in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI remains applicable to this final rule and is available for public inspection between the hours of 8:00 a.m. and 5:00 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either (1) imposes substantial direct compliance costs on state and local governments, and is not required by statute, or (2) the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Paperwork Reduction Act

The information collection requirements for this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0029. In accordance with the Paperwork Reduction Act, 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 currently valid OMB control number.

Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance Number for the principal FHA mortgage insurance program is 14.155.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

Accordingly, for the reasons stated above, HUD amends 24 CFR part 200 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

■ 1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709, and 1715b; 42 U.S.C. 3535(d).

■ 2. Revise § 200.24 to read as follows:

§ 200.24 Existing projects.

A mortgage financing the purchase or refinance of an existing rental housing project or refinance of the existing debt of an existing cooperative project under section 207 of the Act, or for refinancing the existing debt of an existing nursing home, intermediate care facility, assisted living facility, or board and care home, or any combination thereof, under section 232 of the Act, may be insured pursuant to provisions of section 223(f) of the Act and such terms and conditions established by HUD.

Dated: July 15, 2014.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2014–17072 Filed 7–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9636]

RIN 1545–BE18

Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains amendments to correct the final regulations (TD 9636) that provided guidance on the application of sections 162(a) and 263(a) of the Internal Revenue Code (Code) regarding the deduction and capitalization of expenditures related to tangible property. These regulations were published in the **Federal Register** on Thursday, September 19, 2013 (78 FR 57686).

DATES: This correction is effective on July 21, 2014, and is applicable beginning September 19, 2013.

FOR FURTHER INFORMATION CONTACT: Merrill D. Feldstein at (202) 317–5100 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9636) that are the subject of this correction provide guidance under sections 162(a) and 263(a) of the Code to amounts paid to acquire, produce, or improve tangible property and affect taxpayers that acquire, produce, or improve tangible property.

In addition to correcting a number of typographical and syntactical errors, these correcting amendments clarify the manner of electing to capitalize and depreciate the cost of any rotable spare part, temporary spare part, or standby emergency spare part under § 1.162–3(d). As published, § 1.162–3(d)(3) of

the final regulations could be misleading regarding the manner of making this election. The election is made by capitalizing the amounts paid to acquire or produce a material or supply and by beginning to depreciate the designated amounts under the rules for accounting for property depreciated under the Modified Accelerated Cost Recovery System (MACRS) under section 168 (MACRS property). The final regulations are corrected to clarify this point.

A similar election to capitalize and depreciate the cost of materials and supplies was provided under § 1.162–3T(d) of the temporary regulations published in the **Federal Register** on Tuesday, December 27, 2011 (TD 9564) (76 FR 81060). While the temporary regulations (TD 9564) were removed from the **Federal Register** on September 19, 2013, in conjunction with publication of the final regulations (TD 9636), the final regulations permit taxpayers to choose to apply § 1.162–3T(d) to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012, and before January 1, 2014. The language in § 1.162–3T(d)(3) describing the manner of electing to capitalize and depreciate the cost of materials and supplies is similar to the language in § 1.162–3(d)(3) of the final regulations and could be similarly misleading. However, because the temporary regulations have been withdrawn, the language in § 1.162–3T(d)(3) cannot be corrected. Therefore, for good cause to prevent any confusion for taxpayers who choose to apply § 1.162–3T(d) as contained in TD 9564 (76 FR 81060) December 27, 2011, to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012, and before January 1, 2014, § 1.162–3(j)(3) is clarified to provide that the manner for making the election under § 1.162–3T(d)(3) is the same as the manner for making the election under § 1.162–3(d)(3). In both cases, the election is made by capitalizing the amounts paid to acquire or produce designated materials or supplies and by beginning to depreciate these amounts under the rules for accounting for MACRS property.

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.162–3 is amended by:

■ 1. Revising the last sentence of paragraph (c)(4)(i).
■ 2. Revising the first sentence of paragraphs (c)(4)(ii), (d)(1), and (d)(2).
■ 3. Revising paragraph (d)(3).
■ 4. Revising the fourth sentence of paragraph (e)(1).
■ 5. In paragraph (j)(3) removing the text "section" wherever it appears and adding "§ " in its place, and adding two new sentences after the first sentence of the paragraph.

The revisions and addition read as follows:

§ 1.162–3 Materials and supplies.

* * * * *

(c) * * *

(4) * * *

(i) * * * The factors that must be considered in determining this period are provided under § 1.167(a)–1(b).

(ii) * * * For taxpayers with an applicable financial statement (as defined in paragraph (c)(4)(iii) of this section), the economic useful life of a unit of property, solely for the purposes of applying the provisions of this paragraph (c), is the useful life initially used by the taxpayer for purposes of determining depreciation in its applicable financial statement, regardless of any salvage value of the property. * * *

* * * * *

(d) * * *

(1) * * * A taxpayer may elect to treat as a capital expenditure and to treat as an asset subject to the allowance for depreciation the cost of any rotable spare part, temporary spare part, or standby emergency spare part as defined in paragraph (c)(2) or (c)(3) of this section. * * *

(2) * * * A taxpayer may not elect to capitalize and depreciate under this paragraph (d) any amount paid to acquire or produce a rotable, temporary, or standby emergency spare part defined in paragraph (c)(2) or (c)(3) of this section if—

* * * * *

(3) *Manner of electing.* A taxpayer makes the election under this paragraph (d) by capitalizing the amounts paid to acquire or produce a rotable, temporary, or standby emergency spare part in the taxable year the amounts are paid and by beginning to depreciate the costs when the asset is placed in service by the taxpayer for purposes of determining depreciation under the applicable provisions of the Internal Revenue Code and the Treasury Regulations. Section 1.263(a)–2 provides for the treatment of amounts paid to acquire or produce real or personal tangible property. A taxpayer must make the election under this paragraph (d) in its timely filed original Federal tax return (including extensions) for the taxable year the asset is placed in service by the taxpayer for purposes of determining depreciation. Sections 301.9100–1 through 301.9100–3 of this chapter provide the rules governing extensions of the time to make regulatory elections. In the case of an S corporation or a partnership, the election is made by the S corporation or partnership, and not by the shareholders or partners. A taxpayer may make an election for each rotable, temporary, or standby emergency spare part that qualifies for the election under this paragraph (d). This election does not apply to an asset or a portion thereof placed in service and disposed of in the same taxable year. A taxpayer may revoke an election made under this paragraph (d) or made under § 1.162–3T(d), as contained in 26 CFR part 1, revised as of April 1, 2013, only by filing a request for a private letter ruling and obtaining the Commissioner's consent to revoke the election. The Commissioner may grant a request to revoke this election if the taxpayer acted reasonably and in good faith and the revocation will not prejudice the interests of the Government. See generally § 301.9100–3 of this chapter. The manner of electing and revoking the election to capitalize under this paragraph (d) or under § 1.162–3T(d), as contained in 26 CFR part 1, revised as of April 1, 2013, may be modified through guidance of general applicability (see §§ 601.601(d)(2) and 601.602 of this chapter). An election may not be made or revoked through the filing of an application for change in accounting method or, before obtaining the Commissioner's consent to make the late election or to revoke the election, by filing an amended Federal tax return.

(e) * * *

(1) * * * If a taxpayer uses the optional method for rotable parts for pools of rotable and temporary spare parts for which the taxpayer does not use the optional method for its books and records, then the taxpayer must use the optional method for all its pools in

the same trade or business, whether rotable or temporary. * * *

* * * * *

(j) * * *

(3) * * * In applying § 1.162–3T(d)(3), as contained in 26 CFR part 1, revised as of April 1, 2013, a taxpayer makes the election under § 1.162–3T(d) by capitalizing the amounts paid to acquire or produce a material or supply in the taxable year the amounts are paid and by beginning to depreciate the costs when the asset is placed in service by the taxpayer for purposes of determining depreciation under the applicable provisions of the Internal Revenue Code and the Treasury Regulations. The election under § 1.162–3T(d), as contained in 26 CFR part 1, revised as of April 1, 2013, does not apply to an asset or a portion thereof placed in service and disposed of in the same taxable year. * * *

■ **Par. 3.** Section 1.162–4 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 1.162–4 Repairs.

(a) * * * Optionally, § 1.263(a)–3(n) provides an election to capitalize amounts paid for repair and maintenance consistent with the taxpayer's books and records.

* * * * *

■ **Par. 4.** Section 1.263(a)–0 is amended by revising the entry in the outline of the regulations for § 1.263(a)–2(f)(3)(ii) to read as follows:

§ 1.263(a)–0 Outline of regulations under section 263(a).

* * * * *

§ 1.263(a)–2 Amounts paid to acquire or produce tangible property.

* * * * *

(f) * * *

(3) * * *

(ii) Treatment of inherently facilitative amounts allocable to property not acquired.

* * * * *

■ **Par. 5.** Section 1.263(a)–1 is amended by:

■ 1. Revising the second sentence of paragraph (f)(1).

■ 2. Revising paragraphs (f)(1)(i)(B)(*2*), (f)(1)(ii)(B)(*2*), (f)(3)(iv), and (f)(3)(vii).

■ 3. Revising the third sentence of paragraph (f)(5).

■ 4. Revising the heading of paragraph (f)(7) *Example 6.*

The revisions read as follows:

§ 1.263(a)–1 Capital expenditures; in general.

* * * * *

(f) * * *

(1) * * * However, section 263A and the regulations under section 263A require taxpayers to capitalize the direct and allocable indirect costs of property produced by the taxpayer (for example, property improved by the taxpayer) and property acquired for resale.

(i) * * *

(B) * * *

(*2*) Amounts paid for property with an economic useful life (as defined in § 1.162–3(c)(4)) of 12 months or less;

* * * * *

(ii) * * *

(B) * * *

(*2*) Amounts paid for property with an economic useful life (as defined in § 1.162–3(c)(4)) of 12 months or less;

* * * * *

(3) * * *

(iv) *Treatment of de minimis amounts.* An amount paid for property to which a taxpayer properly applies the de minimis safe harbor contained in this paragraph (f) is not treated as a capital expenditure under § 1.263(a)–2(d)(1) or § 1.263(a)–3(d) or as a material and supply under § 1.162–3, and may be deducted under § 1.162–1 in the taxable year the amount is paid provided the amount otherwise constitutes an ordinary and necessary expense incurred in carrying on a trade or business.

* * * * *

(vii) *Combined expensing accounting procedures.* For purposes of paragraphs (f)(1)(i) and (f)(1)(ii) of this section, if the taxpayer has, at the beginning of the taxable year, accounting procedures treating as an expense for non-tax purposes amounts paid for property costing less than a specified dollar amount and amounts paid for property with an economic useful life (as defined in § 1.162–3(c)(4)) of 12 months or less, then a taxpayer electing to apply the de minimis safe harbor under this paragraph (f) must apply the provisions of this paragraph (f) to amounts qualifying under either accounting procedure.

* * * * *

(5) * * * Sections 301.9100–1 through 301.9100–3 of this chapter provide the rules governing extensions of the time to make regulatory elections.* * *

* * * * *

(7) * * *

Example 6. De minimis safe harbor; non-invoice additional costs. * * *

* * * * *

■ **Par. 6.** Section 1.263(a)–2 is amended by:

■ 1. Revising the second sentence of paragraph (d)(1).

■ 2. Revising the second sentence of paragraph (f)(2)(iv)(A) and the fifth sentence of paragraph (f)(2)(iv)(B).

■ 3. Revising the heading of paragraph (f)(3)(ii).

■ 4. Removing the text "section" in the last sentence of paragraph (h)(2).

The revisions read as follows:

§ 1.263(a)–2 Amounts paid to acquire or produce tangible property.

* * * * *

(d) * * *

(1) * * * Section 1.263(a)–3(f) provides the rules for determining whether amounts are for leasehold improvements.* * *

* * * * *

(f) * * *

(2) * * *

(iv) * * *

(A) * * * However, section 263A provides rules for employee compensation and overhead costs required to be capitalized to property produced by the taxpayer or to property acquired for resale.

(B) * * ** Sections 301.9100–1 through 301.9100–3 of this chapter provide the rules governing extensions of the time to make regulatory elections.

* * *

* * * * *

(3) * * *

(ii) *Treatment of inherently facilitative amounts allocable to property not acquired.* * * *

* * * * *

■ **Par. 7.** Section 1.263(a)–3 is amended by:

■ 1. Revising the second and third sentences of paragraph (d) and adding a new fourth sentence.

■ 2. Revising the second sentence of paragraph (e)(2)(i).

■ 3. Revising first and third sentences of paragraph (f)(2)(i).

■ 4. Revising the first, second, and last sentences of paragraph (f)(3)(i).

■ 5. Removing the eighth sentence of paragraph (g)(2)(ii) *Example 3.*

■ 6. Revising paragraph (h)(4).

■ 7. Revising the last sentence of paragraph (h)(5)(ii).

■ 8. Revising the second sentence of paragraph (h)(6).

■ 9. Revising the first sentence and removing the second sentence of paragraph (i)(6) *Example 3(ii).*

■ 10. Revising the next to the last sentence of paragraph (j)(3) *Example 11* and removing the last sentence of this paragraph.

■ 11. Revising paragraphs (k)(1)(v) and (k)(1)(vi).

■ 12. Revising the first sentence of paragraph (k)(2).

■ 13. Revising the last sentence of paragraph (k)(7) *Example 7.*

■ 14. Removing the sixth sentence of paragraph (k)(7) *Example 30.*

■ 15. Revising the second sentence of paragraph (n)(2).

The revisions and addition read as follows:

§ 1.263(a)–3 Amounts paid to improve tangible property.

* * * * *

(d) * * * However, paragraph (f) of this section applies to the treatment of amounts paid to improve leased property. Section 263A provides the requirement to capitalize the direct and allocable indirect costs of property produced by the taxpayer and property acquired for resale. Section 1016 provides for the addition of capitalized amounts to the basis of the property, and section 168 governs the treatment of additions or improvements for depreciation purposes. * * *

* * * * *

(e) * * *

(2) * * *

(i) * * * Paragraph (e)(2)(iii) of this section provides the unit of property for condominiums, paragraph (e)(2)(iv) of this section provides the unit of property for cooperatives, and paragraph (e)(2)(v) of this section provides the unit of property for leased buildings.

* * * * *

(f) * * *

(2) * * *

(i) * * * A taxpayer lessee must capitalize the related amounts, as determined under paragraph (g)(3) of this section, that it pays to improve, as defined under paragraph (d) of this section, a leased property except to the extent that section 110 applies to a construction allowance received by the lessee for the purpose of such improvement or when the improvement constitutes a substitute for rent. * * * A taxpayer lessee must also capitalize the related amounts that a lessor pays to improve, as defined under paragraph (d) of this section, a leased property if the lessee is the owner of the improvement, except to the extent that section 110 applies to a construction allowance received by the lessee for the purpose of such improvement. * * *

* * * * *

(3) * * *

(i) * * * A taxpayer lessor must capitalize the related amounts, as determined under paragraph (g)(3) of this section, that it pays directly, or indirectly through a construction allowance to the lessee, to improve, as defined in paragraph (d) of this section, a leased property when the lessor is the owner of the improvement or to the extent that section 110 applies to the construction allowance. A lessor must also capitalize the related amounts that the lessee pays to improve a leased property, as defined in paragraph (e) of this section, when the lessee's improvement constitutes a substitute for rent. * * * See paragraph (e)(2) of this section for the unit of property for a building and paragraph (e)(3) of this section for the unit of property for real or personal property other than a building.

* * * * *

(h) * * *

(4) *Eligible building property.* For purposes of this section, the term *eligible building property* refers to each unit of property defined in paragraph (e)(2)(i) (building), paragraph (e)(2)(iii)(A) (condominium), paragraph (e)(2)(iv)(A) (cooperative), or paragraph (e)(2)(v)(A) (leased building or portion of building) of this section, as applicable, that has an unadjusted basis of $1,000,000 or less.

(5) * * *

(ii) * * * Section 1.263(a)–4(f)(5)(ii) provides the factors that are significant in determining whether there exists a reasonable expectancy of renewal for purposes of this paragraph.

(6) * * * Sections 301.9100–1 through 301.9100–3 of this chapter provide the rules governing extensions of the time to make regulatory elections. * * *

* * * * *

(i) * * *

(6) * * *

Example 3. * * *

(ii) The additional aircraft engines are rotable spare parts under § 1.162–3(c)(2) because they were acquired separately from the aircraft, are removable from the aircraft, and are repaired and reinstalled on other aircraft or stored for later installation. * * *

* * * * *

(j) * * *

(3) * * *

Example 11. * * * Under paragraph (g)(4) of this section, City C's new requirement that K's building meet certain safety standards to continue to operate is not relevant in determining whether the amount paid improved the building.

* * * * *

(k) * * *

(1) * * *

(v) Results in the rebuilding of the unit of property to a like-new condition as determined under paragraph (k)(5) of this section after the end of its class life as defined in paragraph (i)(4) of this section; or

(vi) Is for the replacement of a part or combination of parts that comprise a major component or a substantial structural part of a unit of property as determined under paragraph (k)(6) of this section.

(2) * * * An amount is paid to improve a building if it is paid to restore, as defined under paragraph (k)(1) of this section, a property specified under paragraph (e)(2)(ii) (building), paragraph (e)(2)(iii)(B) (condominium), paragraph (e)(2)(iv)(B) (cooperative), or paragraph (e)(2)(v)(B) (leased building or portion of building) of this section. * * *

* * * * *

(7) * * *

Example 7. * * * However, paragraphs (k)(1)(vi) and (k)(6) of this section are applicable for determining whether any amounts must be capitalized because they are paid for the replacement of a major component or a substantial structural part of the unit of property.

* * * * *

(n) * * *

(2) * * * Sections 301.9100–1 through 301.9100–3 of this chapter provide the rules governing extensions of the time to make regulatory elections. * * *

■ **Par. 8.** Section 1.263A–1 is amended by revising paragraph (l) to read as follows:

§ 1.263A–1 Uniform capitalization of costs.

* * * * *

(l) *Effective/applicability date*—(1) *In general.* Except as provided in (l)(2), (l)(3), and (l)(4) of this section, the effective dates for this section are provided in paragraph (a)(2) of this section.

(2) *Mixed service costs; self-constructed tangible personal property produced on a routine and repetitive basis.* Paragraphs (h)(2)(i)(D), (k), and (l)(2) of this section apply for taxable years ending on or after August 2, 2005.

(3) *Costs allocable to property sold; indirect costs; licensing and franchise costs.* Paragraphs (c)(5), (e)(3)(i), and (e)(3)(ii)(U) of this section apply for taxable years ending on or after January 13, 2014.

(4) *Materials and supplies*—(i) *In general.* The last sentence of paragraphs (e)(2)(i)(A) and (e)(3)(ii)(E) of this section, and paragraph (l)(4) of this section apply to amounts paid (to acquire or produce property) in taxable years beginning on or after January 1, 2014.

(ii) *Early application of this section.* A taxpayer may choose to apply the last sentence of paragraphs (e)(2)(i)(A) and (e)(3)(ii)(E) of this section, and paragraph (l)(4) of this section to amounts paid (to acquire or produce property) in taxable years beginning on or after January 1, 2012.

(iii) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.263A–1T(b)(14), the introductory phrase of § 1.263A–1T(c)(4), the last sentence of § 1.263A–1T(e)(2)(i)(A), the last sentence of § 1.263A–1T(e)(3)(ii)(E), § 1.263A–1T(l), and § 1.263A–1T(m)(2), as these provisions are contained in TD 9564 (76 FR 81060) December 27, 2011, to amounts paid (to acquire or produce property) in taxable years beginning on or after January 1, 2012, and before January 1, 2014.

Martin V. Franks,

Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

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BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9680]

RIN 1545–BE64

Research Expenditures

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations to amend the definition of research and experimental expenditures under section 174 of the Internal Revenue Code (Code). In particular, these final regulations provide guidance on the treatment of amounts paid or incurred in connection with the development of tangible property, including pilot models. The final regulations will affect taxpayers engaged in research activities.

DATES: *Effective date:* These regulations are effective July 21, 2014.

Applicability date: For date of applicability see § 1.174–2(d).

FOR FURTHER INFORMATION CONTACT: David McDonnell at (202) 317–4137 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Summary of Proposed Regulations

On September 6, 2013, a notice of proposed rulemaking (REG–124148–05) and a notice of public hearing were published in the **Federal Register** (78 FR 547896). The IRS and the Treasury Department proposed the following revisions to the current regulations:

First, to counter an interpretation that section 174 eligibility can be reversed by a subsequent event, the proposed regulations provided that the ultimate success, failure, sale, or other use of the research or property resulting from research or experimentation is not relevant to a determination of eligibility under section 174.

Second, the proposed regulations amended § 1.174–2(b)(4) to provide that the Depreciable Property Rule (the rules in § 1.174–2(b)(1) and § 1.174–2(b)(4)) is an application of the general definition of research or experimental expenditures provided for in § 1.174–2(a)(1) and should not be applied to exclude otherwise eligible expenditures.

Third, the proposed regulations defined the term "pilot model" as any representation or model of a product that is produced to evaluate and resolve uncertainty concerning the product during the development or improvement of the product. The term included a fully-functional representation or model of the product or a component of a product (to the extent the shrinking-back rule applies).

Fourth, the proposed regulations clarified the general rule that the costs of producing a product after uncertainty concerning the development or improvement of a product is eliminated are not eligible under section 174 because these costs are not for research or experimentation.

Finally, the proposed regulations provided a shrinking-back rule, similar to the rule provided in § 1.41–4(b)(2), to address situations in which the requirements of § 1.174–2(a)(1) are met with respect to only a component part of a larger product and are not met with respect to the overall product itself.

The proposed regulations also provided new examples applying the foregoing provisions.

Summary of Comments and Explanation of Provisions

Several comments were received in response to the proposed regulations. Following is a discussion of significant comments. Certain other comments presented issues unrelated to the proposed regulations, and they are not adopted or discussed herein.

Uncertainty

Some commentators requested a definition of "uncertainty" because the examples rely on "elimination of uncertainty" as the point when research activities have concluded. Section 1.174–2(a)(1) provides that "[u]ncertainty exists if the information available to the taxpayer does not establish the capability or method for developing or improving the product or the appropriate design of the product." Because the current regulations already provide a sufficient definition of "uncertainty," and the point at which uncertainty is eliminated (that is, information available to the taxpayer establishes the capability or method for developing or improving the product or the appropriate design of the product) is based on the taxpayer's facts and circumstances, the final regulations do not provide additional guidance with respect to the definition of "uncertainty."

Some commentators requested a bright-line standard, such as the commencement of commercial production as in section 41(d)(4)(A), to determine when uncertainty is eliminated. Section 1.174–2(a)(1) of the proposed regulations provided that costs may be eligible under section 174 if paid or incurred after production begins but before uncertainty concerning the development or improvement of the product is eliminated. The point at which uncertainty is resolved is based on the taxpayer's facts and circumstances, and therefore a bright-line standard is not appropriate under section 174.

Some commentators requested that the regulations explicitly incorporate the rule of application regarding the discovering information requirement found in section 41(d)(1)(B) and § 1.41–4(a)(3)(ii) (that is, there is no requirement that the taxpayer be seeking to obtain information that exceeds, expands, or refines the common knowledge of skilled professionals in the particular field, and there is no requirement that the taxpayer succeed in developing a new or improved business component). The IRS and the Treasury Department note that section 174 does not contain any provision defining research or experimentation. In contrast, section 41 provides a statutory definition for "qualified research," which includes a requirement that the research be undertaken for the purpose of discovering information. In addition, neither the section 174 statute nor its legislative history suggest that a taxpayer must seek information that exceeds, expands, or refines the common knowledge of skilled professionals in the particular field in which the taxpayer is performing research. Section 1.174–2(a)(1) of the current regulations simply provides that "[e]xpenditures represent research and development costs in the experimental or laboratory sense if they are for activities intended to discover information that would eliminate uncertainty concerning the development or improvement of a product." Consequently, this comment is not adopted.

Some commentators questioned how the substantially all requirement in section 41(d)(1)(C) and § 1.41–4(a)(6) (that is, 80 percent or more of a taxpayer's research activities, measured on a cost or other consistently applied reasonable basis, constitute elements of a process of experimentation) applies to section 174. Section 174 does not contain a similar "substantially all" requirement. Accordingly, the requirement in section 41(d)(1)(C) and § 1.41–4(a)(6) does not apply to section 174.

Supplies

Some commentators requested clarification that indirect or ancillary supplies used in research are eligible under section 174 although ineligible under section 41. Section 1.174–2(a)(1) of the current regulations provides that the term "research or experimental expenditures" "generally includes all such costs incident to the development or improvement of a product." This statement is sufficiently broad to include indirect or ancillary supplies used in research that otherwise satisfies the requirements of section 174. Therefore, revisions to the proposed regulations are not needed to respond to the commentators' concern.

Pilot Model

One commentator expressed concern regarding a proposed example demonstrating the application of the rules in the case of multiple pilot models. The commentator suggested that, under *Example 5* of § 1.174–2(a)(11) of the proposed regulations, the deductibility of section 174 expenses for multiple pilot models is permitted only if each pilot model is tested for a purpose that is different from any other pilot model. The definition of pilot model contained in § 1.174–2(a)(4) of the proposed regulations does not contain a requirement that the pilot model be used to test for a discrete purpose. A pilot model within the definition of § 1.174–2(a)(4) of the proposed regulations (including a component to the extent paragraph (a)(5) applies) is eligible for section 174, subject to satisfaction of the other requirements of section 174 and the regulations. The final regulations modify *Example 5* to clarify that it is not necessary for each pilot model to be tested for a discrete purpose for the costs of multiple pilot models to qualify as research and experimental expenditures under section 174.

One commentator requested clarification regarding the distinction between a section 174 eligible "pilot model" and a section 174 ineligible "test bed." Furthermore, the commentator construed *Example 2* and *Example 3* of proposed regulation § 1.174–2(b)(5) to state that test beds are depreciable property excluded from section 174. As provided in proposed regulation § 1.174–2(a)(4), a pilot model means any representation or model of a product that is produced to evaluate and resolve uncertainty concerning the product during the development or improvement of the product. The proposed examples demonstrate the application of § 1.174–2(b)(1), (b)(2), and (b)(4) (that is, when expenditures for property may be research and experimental expenditures). The facts of the proposed examples do not demonstrate the existence of a pilot model nor do they foreclose the possibility that a test bed may be a pilot model if it meets the definition of a pilot model under proposed regulation § 1.174–2(a)(4). For example, if the taxpayer constructed a new test bed as a model test bed and the new test bed was produced to evaluate and resolve uncertainty *concerning the test bed* during its development or improvement, it could be a pilot model. Because these examples were not intended to illustrate pilot models, the final regulations do not adopt this comment.

Shrinking-Back Rule

Some commentators expressed concern that the shrinking-back rule in § 1.174–2(a)(5) of the proposed regulations may exclude from section 174 the cost of testing to eliminate uncertainty regarding the integration of an experimental component with a nonexperimental product. Section 1.174–2(a)(1) of the current regulations provides that the term "research or experimental expenditures" "generally includes all such costs incident to the development or improvement of a product." This statement is sufficiently broad to encompass the cost of testing (other than testing specifically excluded under current § 1.174–1(a)(3) (quality control testing)) performed to eliminate uncertainty with respect to an experimental component and costs to resolve uncertainty regarding integration of an experimental component with a nonexperimental product when the requirements of § 1.174–2(a)(1) are not met for the product as a whole. Therefore, revisions to the proposed regulations are not needed to respond to the commentators' concern.

Some commentators requested that the shrinking-back rule in § 1.174–2(a)(5) of the proposed regulations be eliminated. The commentators stated that the shrinking-back rule in § 1.41–4(b)(2) is peculiar to section 41 and serves no purpose in section 174. As with business components under section 41, research or experimental expenditures may relate only to one or more components of a larger product. The shrinking-back rule in the proposed regulations was intended to ensure that section 174 eligibility is preserved in instances in which a basic design specification of the product may be established, but there is uncertainty with respect to certain components of the product, even if uncertainty arises after production of the product has begun. Therefore, the substance of the shrinking-back rule is retained in the final regulations. However, in response to commentator concerns, and to avoid any unintended confusion with the shrinking-back rule of § 1.41–4(b)(2), the rule in § 1.174–2(a)(5) of the proposed regulations has been renamed. Furthermore, the last sentence of § 1.174–2(a)(5) of the proposed regulations has been eliminated in response to commentator concerns that references to section 41 may imply that other requirements under section 41, such as the process of elimination requirement, apply to expenditures under section 174.

The final regulations also modify *Example 8* of the proposed regulations and include one additional example, *Example 9,* to demonstrate the application of section 174 to components of a product.

Examples

One commentator expressed concern about *Example 7* of § 1.174–2(a)(11) of the proposed regulations, which described the development of "a new, experimental aircraft." The commentator believes that the use of the words "new" and "experimental" in proposed *Example 7* could be interpreted to establish a new, heightened standard for eligibility for section 174. Section 1.174–2(a)(1) of the current regulations provides the only qualitative criteria for eligibility for section 174 and provides that whether expenditures qualify as research or experimental expenditures depends on the nature of the activity to which they relate, not the nature of the product or improvement being developed or the level of technological advancement the product or improvement represents. Terms used in examples do not have substantive meaning that expand or reduce the meaning or application of terms used in the regulations; they are simply describing the facts of the example. Accordingly, the final regulations do not revise *Example 7* to

remove the descriptive terms "new" or "experimental."

One commentator requested guidance revising § 1.174–2(c), regarding exploration expenditures for oil, gas, or minerals. This comment is outside the scope of the proposed regulations which did not propose changes to § 1.174–2(c). Therefore, the requested guidance is not adopted in the final regulations.

Effective/Applicability Date

These regulations apply to taxable years ending on or after the date of their publication as final regulations in the **Federal Register**. Taxpayers may apply the final regulations to taxable years for which the limitations for assessment of tax has not expired.

Special Analyses

It has been determined that this notice of proposed rulemaking 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 regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business and no comments were received.

Drafting Information

The principal author of these regulations is David McDonnell of the Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

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

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

■ **Par. 2.** Section 1.174–2 is amended:

■ 1. In paragraph (a)(1), by adding a heading and by adding two sentences at the end.
■ 2. By removing paragraph (a)(7).
■ 3. By redesignating paragraphs (a)(8) and (9) as paragraphs (a)(10) and (11), respectively, and adding headings to them.
■ 4. By redesignating paragraphs (a)(3) through (6) as paragraphs (a)(6) through (9), respectively, and adding headings to them.
■ 5. By redesignating paragraph (a)(2) as paragraph (a)(3) and adding a heading to newly designated paragraph (a)(3).
■ 6. By adding new paragraphs (a)(2), (4) and (5).
■ 7. In newly redesignated paragraph (a)(7), by removing the language "(a)(3)(i)" and adding "(a)(6)(i)" in its place.
■ 8. In newly redesignated paragraph (a)(9), by removing the language "(a)(6)" and adding "(a)(9)" in its place.
■ 9. By revising newly redesignated paragraph (a)(11) introductory text.
■ 10. In *Example 1* in newly redesignated paragraph (a)(11) by adding a heading.
■ 11. In *Example 2 in* newly redesignated paragraph (a)(11) by adding a heading, removing the language "X" and adding "S" in its place everywhere "X" appears, and removing the language "Y" and adding "T" in its place everywhere "Y" appears.
■ 12. In newly redesignated paragraph (a)(11) by adding *Example 3* through *Example 10.*
■ 13. In paragraphs (b)(1) through (3) by adding headings.
■ 14. By revising paragraph (b)(4).
■ 15. By adding paragraph (b)(5).
■ 16. By adding paragraph (d).

The revisions and additions read as follows:

§ 1.174–2 Definition of research and experimental expenditures.

(a) *In general.* (1) *Research or experimental expenditures defined.* * * * The ultimate success, failure, sale, or use of the product is not relevant to a determination of eligibility under section 174. Costs may be eligible under section 174 if paid or incurred after production begins but before uncertainty concerning the development or improvement of the product is eliminated.

(2) *Production costs.* Except as provided in paragraph (a)(5) of this section (the rule concerning the application of section 174 to components of a product), costs paid or incurred in the production of a product after the elimination of uncertainty concerning the development or improvement of the product are not eligible under section 174.

(3) *Product defined.* * * *

(4) *Pilot model defined.* For purposes of this section, the term *pilot model* means any representation or model of a product that is produced to evaluate and resolve uncertainty concerning the product during the development or improvement of the product. The term includes a fully-functional representation or model of the product or, to the extent paragraph (a)(5) of this section applies, a component of the product.

(5) *Application of section 174 to components of a product.* If the requirements of paragraph (a)(1) of this section are not met at the level of a product (as defined in paragraph (a)(3) of this section), then whether expenditures represent research and development costs is determined at the level of the component or subcomponent of the product. The presence of uncertainty concerning the development or improvement of certain components of a product does not necessarily indicate the presence of uncertainty concerning the development or improvement of other components of the product or the product as a whole. The rule in this paragraph (a)(5) is not itself applied as a reason to exclude research or experimental expenditures from section 174 eligibility.

(6) *Research or experimental expenditures—exclusions.* * * *

(7) *Quality control testing.* * * *

(8) *Expenditures for literary, historical, or similar research—cross reference.* * * *

(9) *Research or experimental expenditures limited to reasonable amounts.* * * *

(10) *Amounts paid to others for research or experimentation.* * * *

(11) *Examples.* The following examples illustrate the application of this paragraph (a).

Example 1. Amounts paid to others for research or experimentation allowed as a deduction. * * *

Example 2. Amounts paid to others not allowable as a deduction. * * *

Example 3. Pilot model. U is engaged in the manufacture and sale of custom machines. U contracts to design and produce a machine to meet a customer's specifications. Because U has never designed a machine with these specifications, U is uncertain regarding the appropriate design of the machine, and particularly whether features desired by the customer can be designed and integrated into a functional machine. U incurs a total of $31,000 on the project. Of the $31,000, U incurs $10,000 of costs on materials and labor to produce a model that is used to evaluate and resolve the uncertainty concerning the appropriate

design. U also incurs $1,000 of costs using the model to test whether certain features can be integrated into the design of the machine. This $11,000 of costs represents research and development costs in the experimental or laboratory sense. After uncertainty is eliminated, U incurs $20,000 to produce the machine for sale to the customer based on the appropriate design. The model produced and used to evaluate and resolve uncertainty is a pilot model within the meaning of paragraph (a)(4) of this section. Therefore, the $10,000 incurred to produce the model and the $1,000 incurred on design testing activities qualifies as research or experimental expenditures under section 174. However, section 174 does not apply to the $20,000 that U incurred to produce the machine for sale to the customer based on the appropriate design. See paragraph (a)(2) of this section (relating to production costs).

Example 4. Product component redesign. Assume the same facts as *Example 3,* except that during a quality control test of the machine, a component of the machine fails to function due to the component's inappropriate design. U incurs an additional $8,000 (including design retesting) to reconfigure the component's design. The $8,000 of costs represents research and development costs in the experimental or laboratory sense. After the elimination of uncertainty regarding the appropriate design of the component, U incurs an additional $2,000 on its production. The reconfigured component produced and used to evaluate and resolve uncertainty with respect to the component is a pilot model within the meaning of paragraph (a)(4) of this section. Therefore, in addition to the $11,000 of research and experimental expenditures previously incurred, the $8,000 incurred on design activities to establish the appropriate design of the component qualifies as research or experimental expenditures under section 174. However, section 174 does not apply to the additional $2,000 that U incurred for the production after the elimination of uncertainty of the re-designed component based on the appropriate design or to the $20,000 previously incurred to produce the machine. See paragraph (a)(2) of this section (relating to production costs).

Example 5. Multiple pilot models. V is a manufacturer that designs a new product. V incurs $5,000 to produce a number of models of the product that are to be used in testing the appropriate design before the product is mass-produced for sale. The $5,000 of costs represents research and development costs in the experimental or laboratory sense. Multiple models are necessary to test the design in a variety of different environments (exposure to extreme heat, exposure to extreme cold, submersion, and vibration). In some cases, V uses more than one model to test in a particular environment. Upon completion of several years of testing, V enters into a contract to sell one of the models to a customer and uses another model in its trade or business. The remaining models were rendered inoperable as a result of the testing process. Because V produced the models to resolve uncertainty regarding the appropriate design of the product, the models are pilot models under paragraph (a)(4) of this section. Therefore, the $5,000 that V incurred in producing the models qualifies as research or experimental expenditures under section 174. See also paragraph (a)(1) of this section (ultimate use is not relevant).

Example 6. Development of a new component; pilot model. W wants to improve a machine for use in its trade or business and incurs $20,000 to develop a new component for the machine. The $20,000 is incurred for engineering labor and materials to produce a model of the new component that is used to eliminate uncertainty regarding the development of the new component for the machine. The $20,000 of costs represents research and experimental costs in the experimental or laboratory sense. After W completes its research and experimentation on the new component, W incurs $10,000 for materials and labor to produce the component and incorporate it into the machine. The model produced and used to evaluate and resolve uncertainty with respect to the new component is a pilot model within the meaning of paragraph (a)(4) of this section. Therefore, the $20,000 incurred to produce the model and eliminate uncertainty regarding the development of the new component qualifies as research or experimental expenditures under section 174. However, section 174 does not apply to the $10,000 of production costs of the component because those costs were not incurred for research or experimentation. See paragraph (a)(2) of this section (relating to production costs).

Example 7. Disposition of a pilot model. X is a manufacturer of aircraft. X is researching and developing a new, experimental aircraft that can take off and land vertically. To evaluate and resolve uncertainty during the development or improvement of the product and test the appropriate design of the experimental aircraft, X produces a working aircraft at a cost of $5,000,000. The $5,000,000 of costs represents research and development costs in the experimental or laboratory sense. In a later year, X sells the aircraft. Because X produced the aircraft to resolve uncertainty regarding the appropriate design of the product during the development of the experimental aircraft, the aircraft is a pilot model under paragraph (a)(4) of this section. Therefore, the $5,000,000 of costs that X incurred in producing the aircraft qualifies as research or experimental expenditures under section 174. Further, it would not matter if X sold the pilot model or incorporated it in its own business as a demonstration model. See paragraph (a)(1) of this section (ultimate use is not relevant).

Example 8. Development of new component; pilot model. Y is a manufacturer of aircraft engines. Y is researching and developing a new type of compressor blade, a component of an aircraft engine, to improve the performance of an existing aircraft engine design that Y already manufactures and sells. To test the appropriate design of the new compressor blade and evaluate the impact of fatigue on the compressor blade design, Y produces and installs the compressor blade on an aircraft engine held by Y in its inventory. The costs of producing and installing the compressor blade component that Y incurred represent research and development costs in the experimental or laboratory sense. Because Y produced the compressor blade component to resolve uncertainty regarding the appropriate design of the component, the component is a pilot model under paragraph (a)(4) of this section. Therefore, the costs that Y incurred to produce and install the component qualify as research or experimental expenditures under section 174. See paragraph (a)(5) of this section (regarding the application of section 174 to components of a product). However, section 174 does not apply to Y's costs of producing the aircraft engine on which the component was installed. See paragraph (a)(2) of this section (relating to production costs).

Example 9. Variant product. T is a fuselage manufacturer for commercial and military aircraft. T is modifying one of its existing fuselage products, Class 20XX–1, to enable it to carry a larger passenger and cargo load. T modifies the Class 20XX–1 design by extending its length by 40 feet. T incurs $1,000,000 to develop and evaluate different designs to resolve uncertainty with respect to the appropriate design of the new fuselage class, Class 20XX–2. The $1,000,000 of costs represents research and development costs in the experimental or laboratory sense. Although Class 20XX–2, is a variant of Class 20XX–1, Class 20XX–2 is a new product because the information available to T as a result of T's development of Class 20XX–1 does not resolve uncertainty with respect to T's development of Class 20XX–2. Therefore, the $1,000,000 of costs that T incurred to develop and evaluate the Class 20XX–2 qualifies as research or experimental expenditures under section 174. Paragraph (a)(5) of this section does not apply, as the requirements of paragraph (a)(1) of this section are met with respect to the entire product.

Example 10. New process development. Z is a wine producer. Z is researching and developing a new wine production process that involves the use of a different method of crushing the wine grapes. In order to test the effectiveness of the new method of crushing wine grapes, Z incurs $2,000 in labor and materials to conduct the test on this part of the new manufacturing process. The $2,000 of costs represents research and development costs in the experimental or laboratory sense. Therefore, the $2,000 incurred qualifies as research or experimental expenditures under section 174 because it is a cost incident to the development or improvement of a component of a process.

(b) * * *

(1) *Land and other property.* * * *

(2) *Expenditure resulting in depreciable property.* * * *

(3) *Amounts paid to others for research or experimentation resulting in depreciable property.* * * *

(4) *Deductions limited to amounts expended for research or experimentation.* The deductions referred to in paragraphs (b)(2) and (3) of this section for expenditures in

connection with the acquisition or production of depreciable property to be used in the taxpayer's trade or business are limited to amounts expended for research or experimentation within the meaning of section 174 and paragraph (a) of this section.

(5) *Examples.* The following examples illustrate the application of paragraph (b) of this section.

Example 1. Amounts paid to others for research or experimentation resulting in depreciable property. X is a tool manufacturer. X has developed a new tool design, and orders a specially-built machine from Y to produce X's new tool. The machine is built upon X's order and at X's risk, and Y does not provide a guarantee of economic utility. There is uncertainty regarding the appropriate design of the machine. Under X's contract with Y, X pays $15,000 for Y's engineering and design labor, $5,000 for materials and supplies used to develop the appropriate design of the machine, and $10,000 for Y's machine production materials and labor. The $15,000 of engineering and design labor costs and the $5,000 of materials and supplies costs represent research and development costs in the experimental or laboratory sense. Therefore, the $15,000 X pays Y for Y's engineering and design labor and the $5,000 for materials and supplies used to develop the appropriate design of the machine are for research or experimentation under section 174. However, section 174 does not apply to the $10,000 of production costs of the machine because those costs were not incurred for research or experimentation. See paragraph (a)(2) of this section (relating to production costs) and paragraph (b)(4) of this section (limiting deduction to amounts expended for research or experimentation).

Example 2. Expenditures with respect to other property. Z is an aircraft manufacturer. Z incurs $5,000,000 to construct a new test bed that will be used in the development and improvement of Z's aircraft. No portion of Z's $5,000,000 of costs to construct the new test bed represent research and development costs in the experimental or laboratory sense to develop or improve the test bed. Because no portion of the costs to construct the new test bed were incurred for research or experimentation, the $5,000,000 will be considered an amount paid or incurred in the production of depreciable property to be used in the taxpayer's trade or business that are not allowable under section 174. However, the allowances for depreciation of the test bed are considered research and experimental expenditures of other products, for purposes of section 174, to the extent the test bed is used in connection with research or experimentation of other products. See paragraph (b)(1) of this section (depreciation allowances may be considered research or experimental expenditures).

Example 3. Expenditure resulting in depreciable property. Assume the same facts as *Example 2,* except that $50,000 of the costs of the test bed relates to costs to resolve uncertainties regarding the new test bed design. The $50,000 of costs represents research and development costs in the experimental or laboratory sense. Because $50,000 of Z's costs to construct the new test bed was incurred for research and experimentation, the costs qualify as research or experimental expenditures under section 174. Paragraph (b)(2) of this section applies to $50,000 of Z's costs for the test bed because they are expenditures for research or experimentation that result in depreciable property to be used in the taxpayer's trade or business. Z's remaining $4,950,000 of costs is not allowable under section 174 because these costs were not incurred for research or experimentation.

* * * * *

(d) *Effective/applicability date.* The eighth and ninth sentences of § 1.174–2(a)(1); § 1.174–2(a)(2); § 1.174–2(a)(4); § 1.174–2(a)(5); § 1.174–2(a)(11) *Example 3* through *Example 10;* § 1.174–2(b)(4); and § 1.174–2(b)(5) apply to taxable years ending on or after July 21, 2014. Taxpayers may apply the provisions enumerated in the preceding sentence to taxable years for which the limitations for assessment of tax has not expired.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 27, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–16956 Filed 7–18–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG–2014–0095]

RIN 1625–AA00, AA08

Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, an interim final rule amending the Coast Guard regulations established for recurring marine events and fireworks displays that take place within the Fifth Coast Guard District area of responsibility. Under that rule, the list of recurring marine events requiring special local regulations or safety zones is updated with revisions, additional events, and removal of events that no longer take place in the Fifth Coast Guard District. When these regulations are enforced, certain restrictions are placed on marine traffic in specified areas. This rulemaking project promotes efficiency by eliminating the need to produce a separate rule for each individual recurring event, and serves to provide notice of the known recurring events requiring a special local regulation or safety zone throughout the year.

DATES: This rule is effective August 20, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0095]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Dennis Sens, Fifth Coast Guard District, Prevention Division, (757) 398–6204, *Dennis.M.Sens@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

AOR Area of Responsibility
APA Administrative Procedure Act
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard published an interim final rule and request for comments on May 27, 2014 (79 FR 30025). The special local regulations listed in 33 CFR 100.501 and safety zones in 33 CFR 165.506 were last amended on May 21, 2013 (78 FR 29629).

B. Basis and Purpose

This rulemaking updates the list of permanent special local regulations at 33 CFR 100.501 and safety zones at 33 CFR 165.506, established for recurring marine events and fireworks displays at various locations within the Fifth Coast Guard District area of responsibility (AOR). The Fifth Coast Guard District AOR is defined in 33 CFR 3.25.

Publishing these regulatory updates in a single rulemaking promotes efficiency

and provides the public with notice through publication in the **Federal Register** of the upcoming recurring marine events and fireworks displays and their accompanying regulations, special local regulations, and safety zones.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive comments in response to the interim final rule and request for comments published in the **Federal Register**. Accordingly, the Coast Guard will enforce 50 special local regulations for marine events and 78 safety zones for fireworks displays on the specified navigable waters as listed within the Table to § 100.501 and § 165.506 respectively.

D. Discussion of the Final Rule

Special Local Regulations

This rule adds 2 new marine events with special local regulations, removes 2 events, and revises 10 previously established marine events in the Table to § 100.501.

The two newly added marine events to 33 CFR 100.501 affect the Middle River, Essex, MD and the Atlantic Ocean, Ocean City, MD. The two removed events no longer listed in 33 CFR 100.501 are the Tri Rock Triathlon, Annapolis, MD, and the Virginia Beach, VA, Hydroplane Races. The 10 existing special local regulations that involve changes to marine event date(s) and coordinates are shown in Table 1, with reference by section as printed in the Table to § 100.501.

TABLE 1

Table to § 100.501 section	Location	Revision (date/coordinates)
1. (a.) 4	N. Atlantic Ocean, Atlantic City, NJ	date.
2. (b.) 7	Severn River, Annapolis, MD	coordinates.
3. (b.) 20	Patuxent River, Solomons Island, MD	date.
4. (b.) 21	N. Atlantic Ocean, Ocean City, MD	dates, coordinates.
5. (c.) 1	Sunset Creek & Hampton River, Hampton, VA	date.
6. (c.) 3	Elizabeth River, Portsmouth, VA	dates.
7. (c.) 6	Mill Creek, Hampton, VA	dates.
8. (c.) 7	Sunset Creek & Hampton River, Hampton, VA	dates.
9. (c.) 8	Back River, Poquoson, VA	dates.
10. (c.) 9	Mattaponi River, Wakema, VA	dates.

Based on the nature of marine events, large number of participants and spectators, and event locations, the Coast Guard has determined that the events listed in this rule could pose a risk to participants or waterway users if normal vessel traffic were to interfere with the event. Possible hazards include risks of participant injury or death resulting from near or actual contact with non-participant vessels traversing through the regulated areas. In order to protect the safety of all waterway users including event participants and spectators, this rule establishes special local regulations for the time and location of each marine event.

This rule prevents vessels from entering, transiting, mooring or anchoring within areas specifically designated as regulated areas during the periods of enforcement unless authorized by the Captain of the Port (COTP), or designated Coast Guard Patrol Commander. The designated "Patrol Commander" includes Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on their behalf. On-scene patrol commander may be augmented by local, State or Federal officials authorized to act in support of the Coast Guard.

Safety Zones

This rule adds 2 new events with safety zones and revises 17 previously established safety zones from the Table to § 165.506. The two newly added safety zones are for fireworks events on the Patapsco River, Baltimore Harbor, Baltimore, MD and on the Atlantic Intra Coastal Waterway, Swansboro, NC. The 17 revisions to existing safety zones in 165.506 involve changes to event date(s) and coordinates. These revised safety zones are shown in Table 2, with reference by section as printed in the Table to § 165.506.

TABLE 2

Table to § 165.506 section	Location	Revision (date/coordinates)
1. (a.) 5	Barnegat Bay, Barnegat Twp., NJ	date.
2. (a.) 11	N. Atlantic Ocean, Ocean City, NJ	date.
3. (b.) 2	Severn River & Spa Creek, Annapolis, MD	coordinates
4. (b.) 3	Middle River, Baltimore County, MD	dates.
5. (b.) 9	Patuxent River, Calvert County, MD	dates.
6. (b.) 24	Isle of Wight Bay, Ocean City, MD	dates, coordinates.
7. (b.) 25	Assawoman Bay, Fenwick Island, Ocean City, MD	coordinates.
8. (c.) 1	Linkhorn Bay, Virginia Beach, VA	coordinates.
9. (c.) 2	York River, West Point, VA	dates.
10. (c.) 4	James River, Newport News, VA	dates.
11. (c.) 6	Chesapeake Bay, Virginia Beach, VA	date.
12. (c.) 7	Elizabeth River, S. Branch, Norfolk, VA	dates.
13. (c.) 9	N. Atlantic Ocean, Virginia Beach, VA	dates.
14. (c.) 11	N. Atlantic Ocean, Virginia Beach, VA	dates.
15. (c.) 13	Chickahominy River, Williamsburg, VA	dates.
16. (c.) 19	Pagan River, Smithfield, VA	dates.

TABLE 2—Continued

Table to § 165.506 section	Location	Revision (date/coordinates)
17. (c.) 21	Chesapeake Bay, Virginia Beach, VA	dates.

Each year, organizations in the Fifth Coast Guard District sponsor fireworks displays in the same general location and time period. Each event uses a barge or an on-shore site near the shoreline as the fireworks launch platform. A safety zone is used to control vessel movement within a specified distance surrounding the launch platforms to ensure the safety of persons and property. Coast Guard personnel on scene may allow boaters within the safety zone if conditions permit.

The enforcement period for these safety zones is from 5:30 p.m. to 1 a.m. local time. However, vessels may enter, remain in, or transit through these safety zones during this time frame if authorized by the COTP or designated Coast Guard patrol commander on scene, as provided for in 33 CFR 165.23. This rule provides for the safety of life on navigable waters during the events.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This finding is based on the short amount of time that vessels will be restricted from regulated areas, and the small size of these areas that are usually positioned away from high vessel traffic zones. Generally vessels would not be precluded from getting underway, or mooring at any piers or marinas currently located in the vicinity of the regulated areas. Advance notifications would also be made to the local maritime community by issuance of Local Notice to Mariners, Broadcast Notice to Mariners, Marine information and facsimile broadcasts so mariners can adjust their plans accordingly. Notifications to the public for most events will typically be made by local newspapers, radio and TV stations. The Coast Guard anticipates that these special local regulated areas and safety zones will only be enforced one to three times per year.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities some of which may be small entities: The owners and operators of vessels intending to transit or anchor in these regulated areas during the times the zones are enforced.

These special local regulated areas and safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The Coast Guard will ensure that small entities are able to operate in the areas where events are occurring to the extent possible while ensuring the safety of event participants and spectators. The enforcement period will be short in duration and, in many of the areas, vessels can transit safely around the regulated area. Generally, blanket permission to enter, remain in, or transit through these regulated areas will be given, except during the period that the Coast Guard patrol vessel is present. Before the enforcement period, we will issue maritime advisories widely.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States. Some marine events by their nature may introduce potential for adverse impact on the safety or other interest of waterway users or waterfront infrastructure within or close proximity to the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. This section of the rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are not required for this section of the rule.

This rule involves implementation of regulations at 33 CFR Part 165 that establish safety zones on navigable waters of the United States for fireworks events. These safety zones are enforced for the duration of fireworks display events. The fireworks are generally launched from or immediately adjacent to navigable waters of the United States. The category of activities includes fireworks launched from barges or at the shoreline that generally rely on the use of navigable waters as a safety buffer. Fireworks displays may introduce potential hazards such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This section of the rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Amend § 100.501 by revising TABLE TO § 100.501 to read as follows:

§ 100.501 Special Local Regulations; Marine Events within the Fifth Coast Guard District.

* * * * *

TABLE TO § 100.501

[All coordinates listed in the Table to § 100.501 reference datum NAD 1983]

No.	Date	Event	Sponsor	Location
(a.) Coast Guard Sector Delaware Bay—COTP Zone				
1	June—1st Sunday	Atlantic County Day at the Bay.	Atlantic County, New Jersey.	The waters of Great Egg Harbor Bay, adjacent to Somers Point, New Jersey, bounded by a line drawn along the following boundaries: The area is bounded to the north by the shoreline along John F. Kennedy Park and Somers Point, New Jersey; bounded to the east by the State Route 52 bridge; bounded to the south by a line that runs along latitude 39°18′00″ N; and bounded to the west by a line that runs along longitude 074°37′00″ W.

TABLE TO § 100.501—Continued

[All coordinates listed in the Table to § 100.501 reference datum NAD 1983]

No.	Date	Event	Sponsor	Location
2	May—3rd Sunday; September—3rd Saturday.	Annual Escape from Fort Delaware Triathlon.	Escape from Fort Delaware Triathlon, Inc.	All waters of the Delaware River between Pea Patch Island and Delaware City, Delaware, bounded by a line connecting the following points: Latitude 39°36′35.7″ N, longitude 075°35′25.6″ W, thence southeast to latitude 39°34′57.3″ N, longitude 075°33′23.1″ W, thence southwest to latitude 39°34′11.9″ N, longitude 075°34′28.6″ W, thence northwest to latitude 39°35′52.4″ N, longitude 075°36′33.9″ W, thence to point of origin.
3	June—last Saturday	Westville Parade of Lights.	Borough of Westville and Westville Power Boat.	All waters of Big Timber Creek in Westville, New Jersey from shoreline to shoreline bounded on the south from the Route 130 Bridge and to the north by the entrance of the Delaware River.
4	June—4th Sunday	OPA Atlantic City Grand Prix.	Offshore Performance Assn. (OPA).	The waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: From a point along the shoreline at latitude 39°21′50″ N, longitude 074°24′37″ W, thence southeasterly to latitude 39°20′40″ N, longitude 074°23′50″ W, thence southwesterly to latitude 39°19′33″ N, longitude 074°26′52″ W, thence northwesterly to a point along the shoreline at latitude 39°20′43″ N, longitude 074°27′40″ W, thence northeasterly along the shoreline to point of origin at latitude 39°21′50″ N, longitude 074°24′37″ W.
5	July—on or about July 4th.	U.S. holiday celebrations.	City of Philadelphia	The waters of the Delaware River, adjacent to Philadelphia, PA and Camden, NJ, from shoreline to shoreline, bounded on the south by the Walt Whitman Bridge and bounded on the north by the Benjamin Franklin Bridge.
6	August—2nd Friday, Saturday and Sunday.	Point Pleasant OPA/NJ Offshore Grand Prix.	Offshore Performance Association (OPA) and New Jersey Offshore Racing Assn.	The waters of the North Atlantic Ocean bounded by a line drawn from a position along the shoreline near Normandy Beach, NJ at latitude 40°00′00″ N, longitude 074°03′30″ W, thence easterly to latitude 39°59′40″ N, longitude 074°02′00″ W, thence southwesterly to latitude 39°56′35″ N, longitude 074°03′00″ W, thence westerly to a position near the Seaside Heights Pier at latitude 39°56′35″ N, longitude 074°04′15″ W, thence northerly along the shoreline to the point of origin.
7	July—3rd Wednesday and Thursday.	New Jersey Offshore Grand Prix.	Offshore Performance Assn. & New Jersey Offshore Racing Assn.	The waters of the Manasquan River from the New York and Long Branch Railroad Bridge to Manasquan Inlet, together with all of the navigable waters of the United States from Asbury Park, New Jersey, latitude 40°14′00″ N; southward to Seaside Park, New Jersey latitude 39°55′00″ N, from the New Jersey shoreline seaward to the limits of the Territorial Sea. The race course area extends from Asbury Park to Seaside Park from the shoreline, seaward to a distance of 8.4 nautical miles.
8	August—3rd Friday	Thunder Over the Boardwalk Air show.	Atlantic City Chamber of Commerce.	The waters of the North Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: From a point along the shoreline at latitude 39°21′31″ N, longitude 074°25′04″ W, thence southeasterly to latitude 39°21′08″ N, longitude 074°24′48″ W, thence southwesterly to latitude 39°20′16″ N, longitude 074°27′17″ W, thence northwesterly to a point along the shoreline at latitude 39°20′44″ N, longitude 074°27′31″ W, thence northeasterly along the shoreline to latitude 39°21′31″ N, longitude 074°25′04″ W.
9	September—last Friday, Saturday and Sunday; October—1st Friday, Saturday and Sunday.	Sunset Lake Hydrofest	Sunset Lake Hydrofest Assn.	All waters of Sunset Lake, New Jersey, from shoreline to shoreline, south of latitude 38°58′32″ N.
10	October—2nd Saturday and Sunday.	The Liberty Grand Prix	Offshore Performance Assn. (OPA).	The waters of the Delaware River, adjacent to Philadelphia, PA and Camden, NJ, from shoreline to shoreline, bounded on the south by the Walt Whitman Bridge and bounded on the north by the Benjamin Franklin Bridge.
11	October—1st Monday (Columbus Day).	U.S. holiday celebrations.	City of Philadelphia	The waters of the Delaware River, adjacent to Philadelphia, PA and Camden, NJ, from shoreline to shoreline, bounded on the south by the Walt Whitman Bridge and bounded on the north by the Benjamin Franklin Bridge.
12	December 31st (New Year's Eve).	U.S. holiday celebrations.	City of Philadelphia	The waters of the Delaware River, adjacent to Philadelphia, PA and Camden, NJ, from shoreline to shoreline, bounded on the south by the Walt Whitman Bridge and bounded on the north by the Benjamin Franklin Bridge.
13	September—3rd Sunday.	Ocean City Air Show	Ocean City, NJ	All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; latitude 39°15′57″ N, longitude 074°35′09″ W thence northeast to latitude 39°16′34″ N, longitude 074°33′54″ W thence southeast to latitude 39°16′17″ N, longitude 074°33′29″ W thence southwest to latitude 39°15′40″ N, longitude 074°34′46″ W thence northwest to point of origin, near Ocean City, NJ.

TABLE TO § 100.501—Continued

[All coordinates listed in the Table to § 100.501 reference datum NAD 1983]

No.	Date	Event	Sponsor	Location
14	September—3rd Sunday.	Atlantic City International Triathlon.	Atlantic City, NJ	All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; latitude 39°21′20″ N, longitude 074°27′18″ W thence northeast to latitude 39°21′27.47″ N, longitude 074°27′10.31″ W thence northeast to latitude 39°21′33″ N, longitude 074°26′57″ W thence northwest to latitude 39°21′37″ N, longitude 074°27′03″ W thence southwest to latitude 39°21′29.88″ N, longitude 074°27′14.31″ W thence south to latitude 39°21′19″ N, longitude 074°27′22″ W thence east to latitude 39°21′18.14″ N, longitude 074°27′19.25″ W thence north to point of origin, near Atlantic City, NJ.
(b.) Coast Guard Sector Baltimore—COTP Zone				
1	March—4th or last Saturday; or April—1st Saturday.	Safety at Sea Seminar	U.S. Naval Academy	All waters of the Severn River from shoreline to shoreline, bounded to the northwest by the Naval Academy (SR–450) Bridge and bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58′39.5″ N., longitude 076°28′49″ W. thence easterly to Carr Point, MD at latitude 38°58′58″ N., longitude 076°27′41″ W.
2	March—3rd, 4th or last Friday, Saturday and Sunday; April and May—every Friday, Saturday and Sunday.	USNA Crew Races	U.S. Naval Academy	All waters of the Severn River from shoreline to shoreline, bounded to the northwest by a line drawn from the south shoreline at latitude 39°00′58″ N., longitude 076°31′32″ W. thence to the north shoreline at latitude 39°01′11″ N., longitude 076°31′10″ W. The regulated area is bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58′39.5″ N., longitude 076°28′49″ W. thence easterly to Carr Point, MD at latitude 38°58′58″ N., longitude 076°27′41″ W.
3	July—3rd, 4th or last Saturday, or Sunday.	Dinghy Poker Run	Norris Trust Foundation	The waters of Middle River, from shoreline to shoreline, within an area bounded to the north by a line drawn along latitude 39°19′33″ N, and bounded to the south by a line drawn along latitude 39°18′06″ W, located in Baltimore County, at Essex, MD.
4	May—1st Sunday	Nanticoke River Swim and Triathlon.	Nanticoke River Swim and Triathlon, Inc.	All waters of the Nanticoke River, including Bivalve Channel and Bivalve Harbor, bounded by a line drawn from a point on the shoreline at latitude 38°18′00″ N, longitude 075°54′00″ W, thence westerly to latitude 38°18′00″ N, longitude 075°55′00″ W, thence northerly to latitude 38°20′00″ N, longitude 075°53′48″ W, thence easterly to latitude 38°19′42″ N, longitude 075°52′54″ W.
5	May—Saturday before Memorial Day.	Chestertown Tea Party Re-enactment Festival.	Chestertown Tea Party Festival.	All waters of the Chester River, within a line connecting the following positions: Latitude 39°12′27″ N, longitude 076°03′46″ W; thence to latitude 39°12′19″ N, longitude 076°03′53″ W; thence to latitude 39°12′15″ N, longitude 076°03′41″ W; thence to latitude 39°12′26″ N, longitude 076°03′38″ W; thence to the point of origin at latitude 39°12′27″ N, longitude 076°03′46″ W.
6	May—3rd Friday, Saturday and Sunday.	Dragon Boat Races at Georgetown, Washington, DC.	Washington, DC Dragon Boat Festival, Inc.	The waters of the Upper Potomac River, Washington, DC, from shoreline to shoreline, bounded upstream by the Francis Scott Key Bridge and downstream by the Roosevelt Memorial Bridge.
7	May—Tuesday and Wednesday before Memorial Day (observed).	USNA Blue Angels Air Show.	U.S. Naval Academy	All waters of the Severn River from shoreline to shoreline, bounded to the northwest by a line drawn from the south shoreline at latitude 39°00′38.02″ N., longitude 076°31′01.49″ W. thence to the north shoreline at latitude 39°00′52.7″ N., longitude 076°30′46.01″ W., this line is approximately 1300 yards northwest of the U.S. 50 fixed highway bridge. The regulated area is bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58′53.26″ N., longitude 076°28′33.31″ W. thence southeast to a point 1500 yards east of Chinks Point, MD at latitude 38°57′41″ N., longitude 076°27′36″ W. thence northeast to Greenbury Point at latitude 38°58′27.66″ N., longitude 076°27′16.38″ W.
8	June—2nd Sunday	The Great Chesapeake Bay Bridges Swim Races.	Great Chesapeake Bay Swim, Inc.	The waters of the Chesapeake Bay between and adjacent to the spans of the William P. Lane Jr. Memorial Bridges from shoreline to shoreline, bounded to the north by a line drawn parallel and 500 yards north of the north bridge span that originates from the western shoreline at latitude 39°00′36″ N, longitude 076°23′05″ W and thence eastward to the eastern shoreline at latitude 38°59′14″ N, longitude 076°20′00″ W, and bounded to the south by a line drawn parallel and 500 yards south of the south bridge span that originates from the western shoreline at latitude 39°00′16″ N, longitude 076°24′30″ W and thence eastward to the eastern shoreline at latitude 38°58′38.5″ N, longitude 076°20′06″ W.
9	June—3rd, 4th or last Saturday or July—2nd or 3rd Saturday.	Maryland Swim for Life	District of Columbia Aquatics Club.	The waters of the Chester River from shoreline to shoreline, bounded on the south by a line drawn at latitude 39°10′16″ N, near the Chester River Channel Buoy 35 (LLN–26795) and bounded on the north at latitude 39°12′30″ N by the Maryland S.R. 213 Highway Bridge.
10	June—last Saturday and Sunday or July—2nd Saturday and Sunday.	Bo Bowman Memorial—Sharptown Regatta.	Virginia/Carolina Racing Assn.	All waters of the Nanticoke River near Sharptown, MD, from shoreline to shoreline, bounded to the south by Maryland S.R. 313 Highway Bridge and bounded to the north by a line drawn from latitude 38°33′09″ N, longitude 075°42′45″ W, thence southeasterly to latitude 38°33′04″ N, longitude 075°42′37″ W.

TABLE TO § 100.501—Continued

[All coordinates listed in the Table to § 100.501 reference datum NAD 1983]

No.	Date	Event	Sponsor	Location
11	June—2nd, 3rd, 4th or last Saturday and Sunday or August—1st Saturday and Sunday.	Thunder on the Narrows.	Kent Narrows Racing Assn.	All waters of Prospect Bay enclosed by the following points: Latitude 38°57′52″ N, longitude 076°14′48″ W, thence to latitude 38°58′02″ N, longitude 076°15′05″ W, thence to latitude 38°57′38″ N, longitude 076°15′29″ W, thence to latitude 38°57′28″ N, longitude 076°15′23″ W, thence to point of origin at latitude 38°57′52″ N, longitude 076°14′48″ W.
12	Labor Day weekend—Saturday and Sunday, or Monday.	Ragin on the River	Port Deposit, MD, Chamber of Commerce.	The waters of the Susquehanna River, adjacent to Port Deposit, Maryland, from shoreline to shoreline, bounded on the south by the U.S. I–95 fixed highway bridge, and bounded on the north by a line running southwesterly from a point along the shoreline at latitude 39°36′22″ N, longitude 076°07′08″ W, thence to latitude 39°36′00″ N, longitude 076°07′46″ W.
13	September—2nd Saturday or the Saturday after Labor Day.	Dragon Boat Races in the Inner Harbor.	Associated Catholic Charities, Inc.	The waters of the Patapsco River, Baltimore, MD, Inner Harbor from shoreline to shoreline, bounded on the east by a line drawn along longitude 076°36′30″ W.
14	June—3rd, 4th or last Saturday or Sunday.	Baltimore Dragon Boat Challenge.	Baltimore Dragon Boat Club.	The waters of Patapsco River, Northwest Harbor, in Baltimore, MD, from shoreline to shoreline, within an area bounded on the east by a line drawn along longitude 076°35′ W and bounded on the west by a line drawn along longitude 076°36′ W.
15	May—2nd or 3rd Saturday or June—1st, 2nd or 3rd Saturday.	Potomac River Sharkfest Swim.	Enviro-Sports Productions Inc.	The waters of the Potomac River, from shoreline to shoreline, bounded by a line drawn parallel and north of the Harry W. Nice Memorial Bridge (U.S. Route 301) originating at the eastern shoreline latitude 38°22′05″ N, longitude 076°59′03″ W, thence west to latitude 38°21′50″ N, longitude 077°00′54″ W, at the western shoreline. The regulated area is bounded by a line drawn parallel and south of the U.S. Route 301 highway bridge, originating at the eastern shoreline latitude 38°21′45″ N, longitude 076°58′58″ W thence west to latitude 38°21′29″ N, longitude 077°00′54″ W, at the western shoreline of Potomac River.
16	June—1st Sunday	Swim Across the Potomac.	U.S. Open Water Swimming Assn.—Wave One Swimming.	The waters of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn that originates at Jones Point Park, VA at the west shoreline latitude 38°47′35″ N, longitude 077°02′22″ W, thence east to latitude 38°47′2″ N, longitude 077°00′58″ W, at east shoreline near National Harbor, MD. The regulated area is bounded to the south by a line drawn originating at George Washington Memorial Parkway highway overpass and Cameron Run, west shoreline latitude 38°47′23″ N, longitude 077°03′03″ W thence east to latitude 38°46′52″ N, longitude 077°01′13″ W, at east shoreline near National Harbor, MD.
17	October—last Saturday; or November—1st Saturday.	MRE Tug of War	Maritime Republic of Eastport.	The waters of Spa Creek from shoreline to shoreline, extending 400 feet from either side of a rope spanning Spa Creek from a position at latitude 38°58′36.9″ N, longitude 076°29′03.8″ W on the Annapolis shoreline to a position at latitude 38°58′26.4″ N, longitude 076°28′53.7″ W on the Eastport shoreline.
18	December—2nd Saturday.	Eastport Yacht Club Lighted Boat Parade.	Eastport Yacht Club	The approaches to Annapolis Harbor, the waters of Spa Creek, and the Severn River, shore to shore, bounded on the south by a line drawn from Carr Point, at latitude 38°58′58″ N, longitude 076°27′40″ W, thence to Horn Point Warning Light (LLNR 17935), at 38°58′24″ N, longitude 076°28′10″ W, thence to Horn Point, at 38°58′20″ N, longitude 076°28′27″ W, and bounded on the north by the State Route 450 Bridge.
19	Memorial Day weekend—Thursday, Friday, Saturday and Sunday; or Labor Day weekend—Thursday, Friday, Saturday and Sunday.	NAS Patuxent River Air Expo.	U.S. Naval Air Station Patuxent River, MD.	All waters of the lower Patuxent River, near Solomons, Maryland, located between Fishing Point and the base of the break wall marking the entrance to the East Seaplane Basin at Naval Air Station Patuxent River, within an area bounded by a line connecting position latitude 38°17′39″ N, longitude 076°25′47″ W; thence to latitude 38°17′47″ N, longitude 076°26′00″ W; thence to latitude 38°18′09″ N, longitude 076°25′40″ W; thence to latitude 38°18′00″ N, longitude 076°25′25″ W, located along the shoreline at U.S. Naval Air Station Patuxent River, Maryland. All waters of the lower Patuxent River, near Solomons, Maryland, located between Hog Point and Cedar Point, within an area bounded by a line drawn from a position at latitude 38°18′41″ N, longitude 076°23′43″ W; to latitude 38°18′16″ N, longitude 076°22′35″ W; thence to latitude 38°18′12″ N, longitude 076°22′37″ W; thence to latitude 38°18′36″ N, longitude 076°23′46″ W, located adjacent to the shoreline at U.S. Naval Air Station Patuxent River, Maryland.
20	September—2nd, 3rd or 4th Friday, Saturday and Sunday.	Chesapeake Challenge	Chesapeake Bay Powerboat Association.	All waters of the Patuxent River, within boundary lines connecting the following positions; originating near north entrance of MD Route 4 bridge, latitude 38°19′45″ N, longitude 076°28′06″ W, thence southwest to south entrance of MD Route 4 bridge, latitude 38°19′24″ N, longitude 076°28′30″ W, thence south to a point near the shoreline, latitude 38°18′32″ N, longitude 076°28′14″ W, thence southeast to a point near the shoreline, latitude 38°17′38″ N, longitude 076°27′26″ W, thence northeast to latitude 38°18′00″ N, longitude 076°26′41″ W, thence northwest to latitude 38°18′59″ N, longitude 076°27′20″ W, located at Solomons, MD, thence continuing northwest and parallel to shoreline to point of origin.

TABLE TO § 100.501—Continued

[All coordinates listed in the Table to § 100.501 reference datum NAD 1983]

No.	Date	Event	Sponsor	Location
21	May—last Saturday and Sunday; or June—1st Saturday and Sunday; or October—1st Saturday and Sunday.	Ocean City Maryland Offshore Grand Prix.	Offshore Performance Assn. Racing, LLC.	The waters of the North Atlantic Ocean commencing at a point on the shoreline at latitude 38°25′42″ N, longitude 075°03′06″ W; thence east southeast to latitude 38°25′30″ N, longitude 075°02′12″ W, thence south southwest parallel to the Ocean City shoreline to latitude 38°19′12″ N, longitude 075°03′48″ W; thence west northwest to the shoreline at latitude 38°19′30″ N, longitude 075°05′00″ W.
22	June—1st or 2nd Thursday, Friday, Saturday and Sunday.	Ocean City Air Show	Town of Ocean City, Maryland.	All waters of the North Atlantic Ocean within an area bounded by the following coordinates: Latitude 38°21′38″ N, longitude 075°04′04″ W; latitude 38°21′27″ N, longitude 075°03′29″ W; latitude 38°19′35″ N, longitude 075°04′19″ W; and latitude 38°19′45″ N, longitude 075°04′54″ W, located at Ocean City, MD.
		(c.) Coast Guard Sector Hampton Roads—COTP Zone		
1	May—last Friday, Saturday and Sunday and/or June—1st Friday, Saturday and Sunday.	Blackbeard Festival	City of Hampton	The waters of Sunset Creek and Hampton River shore to shore bounded to the north by the I–64 Bridge over the Hampton River and to the south by a line drawn from Hampton River Channel Light 16 (LL 5715), located at latitude 37°01′03″ N, longitude 76°20′26″ W, to the finger pier across the river at Fisherman's Wharf, located at latitude 37°01′01.5″ N, longitude 76°20′32″ W. Spectator Vessel Anchorage Areas—Area A: Located in the upper reaches of the Hampton River, bounded to the south by a line drawn from the western shore at latitude 37°01′48″ N, longitude 76°20′22″ W, across the river to the eastern shore at latitude 37°01′44″ N, longitude 76°20′13″ W, and to the north by the I–64 Bridge over the Hampton River. The anchorage area will be marked by orange buoys. Area B: Located on the eastern side of the channel, in the Hampton River, south of the Queen Street Bridge, near the Riverside Health Center. Bounded by the shoreline and a line drawn between the following points: Latitude 37°01′26″ N, longitude 76°20′24″ W, latitude 37°01′22″ N, longitude 76°20′26″ W, and latitude 37°01′22″ N, longitude 76°20′23″ W. The anchorage area will be marked by orange buoys.
2	June—1st Friday, Saturday and Sunday or 2nd Friday, Saturday and Sunday.	Norfolk Harborfest	Norfolk Festevents, Ltd.	The waters of the Elizabeth River and its branches from shoreline to shoreline, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50′51″ N, longitude 076°18′09″ W and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51′00″ N, longitude 076°17′52″ W; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50′50″ N, longitude 076°18′10″ W, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50′29″ N, longitude 076°17′52″ W; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36°50′10″ N, longitude 076°17′47″ W, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50′08″ N, longitude 076°17′39″ W; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50′21.5″ N, longitude 076°17′14.5″ W, and Norfolk at latitude 36°50′35″ N, longitude 076°17′10″ W.
3	June—2nd or 3rd Saturday.	Cock Island Race	Portsmouth Boat Club & City of Portsmouth, VA.	The waters of the Elizabeth River and its branches from shoreline to shoreline, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50′51″ N, longitude 076°18′09″ W and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51′00″ N, longitude 076°17′52″ W; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50′50″ N, longitude 076°18′10″ W, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50′29″ N, longitude 076°17′52″ W; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36°50′10″ N, longitude 076°17′47″ W, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50′08″ N, longitude 076°17′39″ W; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50′21.5″ N, longitude 076°17′14.5″ W, and Norfolk at latitude 36°50′35″ N, longitude 076°17′10″ W.

TABLE TO § 100.501—Continued

[All coordinates listed in the Table to § 100.501 reference datum NAD 1983]

No.	Date	Event	Sponsor	Location
4	June—last Saturday or July—1st Saturday.	RRBA Spring Radar Shootout.	Rappahannock River Boaters Association (RRBA).	The waters of the Rappahannock River, adjacent to Layton, VA, from shoreline to shoreline, bounded on the west by a line running along longitude 076°58′30″ W, and bounded on the east by a line running along longitude 076°56′00″ W.
5	July—last Wednesday and following Friday; or August—1st Wednesday and following Friday.	Pony Penning Swim	Chincoteague Volunteer Fire Department.	The waters of Assateague Channel from shoreline to shoreline, bounded to the east by a line drawn from latitude 37°55′01″ N, longitude 075°22′40″ W, thence south to latitude 37°54′50″ N, longitude 075°22′46″ W; and to the southwest by a line drawn from latitude 37°54′54″ N, longitude 075°23′00″ W, thence east to latitude 37°54′49″ N, longitude 075°22′49″ W.
6	August 1st or 2nd Friday, Saturday and Sunday.	Hampton Cup Regatta.	Hampton Cup Regatta Boat Club.	The waters of Mill Creek, adjacent to Fort Monroe, Hampton, Virginia, enclosed by the following boundaries: To the north, a line drawn along latitude 37°01′00″ N, to the east a line drawn along longitude 076°18′30″ W, to the south a line parallel with the shoreline adjacent to Fort Monroe, and the west boundary is parallel with the Route 258—Mercury Boulevard Bridge.
7	September 1st Friday, Saturday and Sunday or 2nd Friday, Saturday and Sunday.	Hampton Virginia Bay Days Festival.	Hampton Bay Days Inc.	The waters of Sunset Creek and Hampton River shore to shore bounded to the north by the I–64 Bridge over the Hampton River and to the south by a line drawn from Hampton River Channel Light 16 (LL 5715), located at latitude 37°01′03″ N, longitude 076°20′26″ W, to the finger pier across the river at Fisherman's Wharf, located at latitude 37°01′01.5″ N, longitude 076°20′32″ W.
8	September—last Sunday or October—1st Sunday.	Poquoson Seafood Festival Workboat Races.	City of Poquoson	The waters of the Back River, Poquoson, Virginia, bounded on the north by a line drawn along latitude 37°06′30″ N, bounded on the south by a line drawn along latitude 37°06′15″ N, bounded on the east by a line drawn along longitude 076°18′52″ W and bounded on the west by a line drawn along longitude 076°19′30″ W.
9	June—3rd Saturday and Sunday or 4th Saturday and Sunday.	Mattaponi Drag Boat Race.	Mattaponi Volunteer Rescue Squad and Dive Team.	All waters of Mattaponi River immediately adjacent to Rainbow Acres Campground, King and Queen County, Virginia. The regulated area includes a section of the Mattaponi River approximately three-quarter mile long and bounded in width by each shoreline, bounded to the east by a line that runs parallel along longitude 076°52′43″ W, near the mouth of Mitchell Hill Creek, and bounded to the west by a line that runs parallel along longitude 076°53′41″ W just north of Wakema, Virginia.
(d.) Coast Guard Sector North Carolina—COTP Zone				
1	June—1st Saturday and Sunday.	Carolina Cup Regatta	Virginia Boat Racing Assn.	The waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bounded on the west by the Elizabeth City Draw Bridge and bounded on the east by a line originating at a point along the shoreline at latitude 36°17′54″ N, longitude 076°12′00″ W, thence southwesterly to latitude 36°17′35″ N, longitude 076°12′18″ W at Cottage Point.
2	August—1st Friday, Saturday and Sunday.	SBIP—Fountain Powerboats Kilo Run and Super Boat Grand Prix.	Super Boat International Productions (SBIP), Inc.	The waters of the Pamlico River including Chocowinity Bay, from shoreline to shoreline, bounded on the south by a line running northeasterly from Camp Hardee (North Carolina) at latitude 35°28′23″ N, longitude 076°59′23″ W, to Broad Creek Point at latitude 35°29′04″ N, longitude 076°58′44″ W, and bounded on the north by the Norfolk Southern Railroad Bridge.
3	September—3rd and or 4th or last Sunday.	Crystal Coast Grand Prix.	North Carolina East Sports, Inc. N/P.	The waters of Bogue Sound, adjacent to Morehead City, NC, from the southern tip of Sugar Loaf Island approximate position latitude 34°42′55″ N, longitude 076°42′48″ W, thence westerly to Morehead City Channel Day beacon 7 (LLNR 38620), thence southwest along the channel line to Bogue Sound Light 4 (LLRN 38770), thence southerly to Causeway Channel Day beacon 2 (LLNR 38720), thence southeasterly to Money Island Day beacon 1 (LLNR 38645), thence easterly to Eight and One Half Marina Day beacon 2 (LLNR 38685), thence easterly to the western most shoreline of Brant Island approximate position latitude 34°42′36″ N, longitude 076°42′11″ W, thence northeasterly along the shoreline to Tombstone Point approximate position latitude 34°42′14″ N, longitude 076°41′20″ W, thence southeasterly to the east end of the pier at Coast Guard Sector North Carolina approximate position latitude 34°42′00″ N, longitude 076°40′52″ W, thence easterly to Morehead City Channel Buoy 20 (LLNR 29427), thence northerly to Beaufort Harbor Channel LT 1BH (LLNR 34810), thence northwesterly to the southern tip of Radio Island approximate position latitude 34°42′22″ N, longitude 076°40′52″ W, thence northerly along the shoreline to approximate position latitude 34°43′00″ N, longitude 076°41′25″ W, thence westerly to the North Carolina State Port Facility, thence westerly along the State Port to the southwest corner approximate position latitude 34°42′55″ N, longitude 076°42′12″ W, thence westerly to the southern tip of Sugar Loaf Island the point of origin.
4	September—3rd, 4th or last Saturday; October—last Saturday; November—1st and or 2nd Saturday.	Wilmington YMCA Triathlon.	Wilmington, NC, YMCA	The waters of, and adjacent to, Wrightsville Channel, from Wrightsville Channel Day beacon 14 (LLNR 28040), located at 34°12′18″ N, longitude 077°48′10″ W, to Wrightsville Channel Day beacon 25 (LLNR 28080), located at 34°12′51″ N, longitude 77°48′53″ W.

TABLE TO § 100.501—Continued

[All coordinates listed in the Table to § 100.501 reference datum NAD 1983]

No.	Date	Event	Sponsor	Location
5	August—2nd Saturday.	The Crossing	Organization to Support the Arts, Infrastructure, and Learning on Lake Gaston, AKA O'SAIL.	All waters of Lake Gaston, from shoreline to shoreline, directly under the length of Eaton Ferry Bridge (NC State Route 903), latitude 36°31′06″ N, longitude 077°57′37″ W, bounded to the west by a line drawn parallel and 100 yards from the western side of Eaton Ferry Bridge near Littleton, NC.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 3. The authority citation for part 165 continues to read as follows:

■ 4. Amend § 165.506 by revising TABLE TO § 165.506 to read as follows:

§ 165.506 Safety Zones; Fireworks Displays in the Fifth Coast Guard District.

* * * * *

TABLE TO § 165.506

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983]

No.	Date	Location	Regulated area
		(a.) Coast Guard Sector Delaware Bay—COTP Zone	
1	July 4th	North Atlantic Ocean, Bethany Beach, DE, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate position latitude 38°32′08″ N, longitude 075°03′15″ W, adjacent to shoreline of Bethany Beach, DE.
2	Labor Day	Indian River Bay, DE, Safety Zone.	All waters of the Indian River Bay within a 700 yard radius of the fireworks launch location on the pier in approximate position latitude 38°36′42″ N, longitude 075°08′18″ W.
3	July 4th	North Atlantic Ocean, Rehoboth Beach, DE, Safety Zone.	All waters of the North Atlantic Ocean within a 360 yard radius of the fireworks barge in approximate position latitude 38°43′01.2″ N, longitude 075°04′21″ W, approximately 400 yards east of Rehoboth Beach, DE.
4	July 4th	North Atlantic Ocean, Avalon, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°06′19.5″ N, longitude 074°42′02.15″ W, in the vicinity of the shoreline at Avalon, NJ.
5	July 4th, or September 1st—2nd Saturday.	Barnegat Bay, Barnegat Township, NJ, Safety Zone.	The waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position latitude 39°44′50″ N, longitude 074°11′21″ W, approximately 500 yards north of Conklin Island, NJ.
6	July 4th	North Atlantic Ocean, Cape May, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 38°55′36″ N, longitude 074°55′26″ W, immediately adjacent to the shoreline at Cape May, NJ.
7	July 3rd	Delaware Bay, North Cape May, NJ, Safety Zone.	All waters of the Delaware Bay within a 360 yard radius of the fireworks barge in approximate position latitude 38°58′00″ N, longitude 074°58′30″ W.
8	August—3rd Sunday	Great Egg Harbor Inlet, Margate City, NJ, Safety Zone.	All waters within a 500 yard radius of the fireworks barge in approximate location latitude 39°19′33″ N, longitude 074°31′28″ W, on the Intracoastal Waterway near Margate City, NJ.
9	July 4th. August every Thursday; September 1st Thursday.	Metedeconk River, Brick Township, NJ, Safety Zone.	The waters of the Metedeconk River within a 300 yard radius of the fireworks launch platform in approximate position latitude 40°03′24″ N, longitude 074°06′42″ W, near the shoreline at Brick Township, NJ.
10	July—1st Friday	North Atlantic Ocean, Atlantic City, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge located at latitude 39°20′58″ N, longitude 074°25′58″ W, near the shoreline at Atlantic City, NJ.
11	July 4th; October—1st or 2nd Saturday.	North Atlantic Ocean, Ocean City, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°16′22″ N, longitude 074°33′54″ W, in the vicinity of the shoreline at Ocean City, NJ.
12	May—4th Saturday	Barnegat Bay, Ocean Township, NJ, Safety Zone.	All waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position latitude 39°47′33″ N, longitude 074°10′46″ W.
13	July 4th	Little Egg Harbor, Parker Island, NJ, Safety Zone.	All waters of Little Egg Harbor within a 500 yard radius of the fireworks barge in approximate position latitude 39°34′18″ N, longitude 074°14′43″ W, approximately 100 yards north of Parkers Island.

TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983]

No.	Date	Location	Regulated area
14	September—3rd Saturday	Delaware River, Chester, PA, Safety Zone.	All waters of the Delaware River near Chester, PA just south of the Commodore Barry Bridge within a 250 yard radius of the fireworks barge located in approximate position latitude 39°49′43.2″ N, longitude 075°22′42″ W.
15	September—3rd Saturday	Delaware River, Essington, PA, Safety Zone.	All waters of the Delaware River near Essington, PA, west of Little Tinicum Island within a 250 yard radius of the fireworks barge located in the approximate position latitude 39°51′18″ N, longitude 075°18′57″ W.
16	July 3rd, 4th or 5th; Columbus Day; December 31st, January 1st.	Delaware River, Philadelphia, PA, Safety Zone.	All waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at latitude 39°56′31.2″ N, longitude 075°08′28.1″ W; thence to latitude 39°56′29.1″ N, longitude 075°07′56.5″ W, and bounded on the north by the Benjamin Franklin Bridge.
	(b.) Coast Guard Sector Baltimore—COTP Zone		
1	April—1st or 2nd Saturday	Washington Channel, Upper Potomac River, Washington, DC, Safety Zone.	All waters of the Upper Potomac River within a 150 yard radius of the fireworks barge in approximate position latitude 38°52′20″ N, longitude 077°01′17″ W, located within the Washington Channel in Washington Harbor, DC.
2	July 4th. December—1st and 2nd Saturday; December 31st.	Severn River and Spa Creek, Annapolis, MD, Safety Zone.	All waters of the Severn River and Spa Creek within an area bounded by a line drawn from latitude 38°58′43.75″ N, longitude 076°28′01.42″ W; thence to latitude 38°58′21.14″ N, longitude 076°28′22.12″ W; thence to latitude 38°58′39.47″ N, longitude 076°28′48.72″ W; thence to latitude 38°58′53″ N, longitude 076°28′33.74″ W, thence to latitude 38°58′57.22″ N, longitude 076°28′39.83″ W, thence to latitude 38°59′02.15″ N, longitude 076°28′34.61″ W, thence to point of origin; located near the entrance to Spa Creek and Severn River, Annapolis, MD.
3	July—4th, or Saturday before or after Independence Day holiday.	Middle River, Baltimore County, MD, Safety Zone.	All waters of the Middle River within a 300 yard radius of the fireworks barge in approximate position latitude 39°17′45″ N, longitude 076°23′49″ W, approximately 300 yards east of Rockaway Beach, near Turkey Point.
4	June—last Saturday; July—3rd, 4th or last Saturday or Sunday.	Potomac River, Charles County, MD—Newburg, Safety Zone.	All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position latitude 38°23′41″ N, longitude 076°59′30″ W, located near Newburg, Maryland.
5	June 14th; July 4th; September—2nd Saturday; December 31st.	Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position 39°15′55″ N, 076°34′33″ W, located adjacent to the East Channel of Northwest Harbor.
6	May—2nd or 3rd Thursday or Friday; July 4th; December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 100 yard radius of the fireworks barge in approximate position latitude 39°17′01″ N, longitude 076°36′31″ W, located at the entrance to Baltimore Inner Harbor, approximately 125 yards southwest of pier 3.
7	May—2nd or 3rd Thursday or Friday; July 4th; December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	The waters of the Patapsco River within a 100 yard radius of approximate position latitude 39°17′04″ N, longitude 076°36′36″ W, located in Baltimore Inner Harbor, approximately 125 yards southeast of pier 1.
8	July 4th; December 31st	Northwest Harbor (West Channel) Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position latitude 39°16′21″ N, longitude 076°34′38″ W, located adjacent to the West Channel of Northwest Harbor.
9	July—4th, or Saturday before or after Independence Day holiday.	Patuxent River, Calvert County, MD, Safety Zone.	All waters of the Patuxent River within a 200 yard radius of the fireworks barge located at latitude 38°19′17″ N, longitude 076°27′45″ W, approximately 800 feet from shore at Solomons Island, MD.
10	July 3rd	Chesapeake Bay, Chesapeake Beach, MD, Safety Zone.	All waters of the Chesapeake Bay within a 150 yard radius of the fireworks barge in approximate position latitude 38°41′36″ N, longitude 076°31′30″ W, and within a 150 yard radius of the fireworks barge in approximate position latitude 38°41′28″ N, longitude 076°31′29″ W, located near Chesapeake Beach, Maryland.
11	July 4th	Choptank River, Cambridge, MD, Safety Zone.	All waters of the Choptank River within a 300 yard radius of the fireworks launch site at Great Marsh Point, located at latitude 38°35′06″ N, longitude 076°04′46″ W.

TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983]

No.	Date	Location	Regulated area
12	July—2nd or 3rd Saturday and last Saturday.	Potomac River, Fairview Beach, Charles County, MD, Safety Zone.	All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°19′57″ N, longitude 077°14′40″ W, located north of the shoreline at Fairview Beach, Virginia.
13	May—last Saturday; July 4th	Potomac River, Charles County, MD—Mount Vernon, Safety Zone.	All waters of the Potomac River within an area bound by a line drawn from the following points: Latitude 38°42′30″ N, longitude 077°04′47″ W; thence to latitude 38°42′18″ N, longitude 077°04′42″ W; thence to latitude 38°42′11″ N, longitude 077°05′10″ W; thence to latitude 38°42′22″ N, longitude 077°05′12″ W; thence to point of origin located along the Potomac River shoreline at George Washington's Mount Vernon Estate, Fairfax County, VA.
14	October—1st Saturday	Dukeharts Channel, Potomac River, MD, Safety Zone.	All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°13′27″ N, longitude 076°44′48″ W, located adjacent to Dukeharts Channel near Coltons Point, Maryland.
15	July—day before Independence Day holiday and July 4th; November—3rd Thursday, 3rd Saturday and last Friday. December—1st, 2nd and 3rd Friday.	Potomac River, National Harbor, MD, Safety Zone.	All waters of the Potomac River within an area bound by a line drawn from the following points: Latitude 38°47′13″ N, longitude 077°00′58″ W; thence to latitude 38°46′51″ N, longitude 077°01′15″ W; thence to latitude 38°47′25″ N, longitude 077°01′33″ W; thence to latitude 38°47′32″ N, longitude 077°01′08″ W; thence to the point of origin, located at National Harbor, Maryland.
16	Sunday before July 4th, July 4th..	Susquehanna River, Havre de Grace, MD, Safety Zone.	All waters of the Susquehanna River within a 300 yard radius of approximate position latitude 39°32′06″ N, longitude 076°05′22″ W, located on the island at Millard Tydings Memorial Park.
17	June and July—Saturday before Independence Day holiday.	Miles River, St. Michaels, MD, Safety Zone.	All waters of the Miles River within a 200 yard radius of approximate position latitude 38°47′42″ N, longitude 076°12′51″ W, located at the entrance to Long Haul Creek.
18	July 3rd	Tred Avon River, Oxford, MD, Safety Zone.	All waters of the Tred Avon River within a 150 yard radius of the fireworks barge in approximate position latitude 38°41′24″ N, longitude 076°10′37″ W, approximately 500 yards northwest of the waterfront at Oxford, MD.
19	July 3rd	Northeast River, North East, MD, Safety Zone.	All waters of the Northeast River within a 300 yard radius of the fireworks barge in approximate position latitude 39°35′26″ N, longitude 075°57′00″ W, approximately 400 yards south of North East Community Park.
20	June—2nd or 3rd Saturday; July—1st, 2nd or 3rd Saturday; September—1st or 2nd Saturday; December 31st.	Upper Potomac River, Washington, D.C., Safety Zone.	All waters of the Upper Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°48′40″ N, longitude 077°02′07″ W, located near the waterfront of Alexandria, Virginia.
21	March through October, at the conclusion of evening MLB games at Washington Nationals Ball Park.	Anacostia River, Washington, D.C., Safety Zone.	All waters of the Anacostia River within a 150 yard radius of the fireworks barge in approximate position latitude 38°52′13″ N, longitude 077°00′16″ W, located near the Washington Nationals Ball Park.
22	June—last Saturday or July—1st Saturday; July—3rd, 4th or last Saturday or Sunday.	Potomac River, Prince William County, VA, Safety Zone.	All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position latitude 38°34′08″ N, longitude 077°15′38″ W, located near Cherry Hill, Virginia.
23	July 4th	North Atlantic Ocean, Ocean City, MD, Safety Zone.	All waters of the North Atlantic Ocean in an area bound by the following points: Latitude 38°19′39.9″ N, longitude 075°05′03.2″ W; thence to latitude 38°19′36.7″ N, longitude 075°04′53.5″ W; thence to latitude 38°19′45.6″ N, longitude 075°04′49.3″ W; thence to latitude 38°19′49.1″ N, longitude 075°05′00.5″ W; thence to point of origin. The size of the safety zone extends approximately 300 yards offshore from the fireworks launch area located at the high water mark on the beach.
24	May—Sunday before Memorial Day (observed). June 29th; July 4th and July every Sunday. August—1st Sunday and Sunday before Labor Day (observed).	Isle of Wight Bay, Ocean City, MD, Safety Zone.	All waters of Isle of Wight Bay within a 200 yard radius of the fireworks barge in approximate position latitude 38°22′31″ N, longitude 075°04′34″ W.
25	July 4th	Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone.	All waters of Assawoman Bay within a 360 yard radius of the fireworks launch location on the pier at the West end of Northside Park, in approximate position latitude 38°25′55″ N, longitude 075°03′53″ W.

TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983]

No.	Date	Location	Regulated area
26	July 4th; December 31st	Baltimore Harbor, Baltimore Inner Harbor, MD, Safety Zone.	All waters of Baltimore Harbor, Patapsco River, within a 280 yard radius of a fireworks barge in approximate position latitude 39°16′36.7″ N, longitude 076°35′53.8″ W, located northwest of the Domino Sugar refinery wharf at Baltimore, Maryland.
		(c.) Coast Guard Sector Hampton Roads—COTP Zone	
1	July 4th	Linkhorn Bay, Virginia Beach, VA, Safety Zone.	All waters of the Linkhorn Bay within a 400 yard radius of the fireworks display in approximate position latitude 36°52′20″ N, longitude 076°00′38″ W, located near the Cavalier Golf and Yacht Club, Virginia Beach, Virginia.
2	September—last Friday or October—1st Friday.	York River, West Point, VA, Safety Zone.	All waters of the York River near West Point, VA within a 400 yard radius of the fireworks display located in approximate position latitude 37°31′25″ N, longitude 076°47′19″ W.
3	July 4th	York River, Yorktown, VA, Safety Zone.	All waters of the York River within a 400 yard radius of the fireworks display in approximate position latitude 37°14′14″ N, longitude 076°30′02″ W, located near Yorktown, Virginia.
4	July 4th, July 5th, July 6th, or July 7th.	James River, Newport News, VA, Safety Zone.	All waters of the James River within a 325 yard radius of the fireworks barge in approximate position latitude 36°58′30″ N, longitude 076°26′19″ W, located in the vicinity of the Newport News Shipyard, Newport News, Virginia.
5	June—4th Friday; July—1st Friday; July 4th.	Chesapeake Bay, Norfolk, VA, Safety Zone.	All waters of the Chesapeake Bay within a 400 yard radius of the fireworks display located in position latitude 36°57′21″ N, longitude 076°15′00″ W, located near Ocean View Fishing Pier.
6	July 4th or 5th	Chesapeake Bay, Virginia Beach, VA, Safety Zone.	All waters of the Chesapeake Bay 400 yard radius of the fireworks display in approximate position latitude 36°55′02″ N, longitude 076°03′27″ W, located at the First Landing State Park at Virginia Beach, Virginia.
7	July 4th; December 31st, January—1st.	Elizabeth River, Southern Branch, Norfolk, VA, Safety Zone.	All waters of the Elizabeth River Southern Branch in an area bound by the following points: Latitude 36°50′54.8″ N, longitude 076°18′10.7″ W; thence to latitude 36°51′7.9″ N, longitude 076°18′01″ W; thence to latitude 36°50′45.6″ N, longitude 076°17′44.2″ W; thence to latitude 36°50′29.6″ N, longitude 076°17′23.2″ W; thence to latitude 36°50′7.7″ N, longitude 076°17′32.3″ W; thence to latitude 36°49′58″ N, longitude 076°17′28.6″ W; thence to latitude 36°49′52.6″ N, longitude 076°17′43.8″ W; thence to latitude 36°50′27.2″ N, longitude 076°17′45.3″ W thence to the point of origin.
8	July—3rd Saturday	John H. Kerr Reservoir, Clarksville, VA, Safety Zone.	All waters of John H. Kerr Reservoir within a 400 yard radius of approximate position latitude 36°37′51″ N, longitude 078°32′50″ W, located near the center span of the State Route 15 Highway Bridge.
9	June, July, August, September, and October—every Wednesday, Friday, Saturday and Sunday. July 4th.	North Atlantic Ocean, Virginia Beach, VA, Safety Zone. A.	All waters of the North Atlantic Ocean within a 1000 yard radius of the center located near the shoreline at approximate position latitude 36°51′12″ N, longitude 075°58′06″ W, located off the beach between 17th and 31st streets.
10	September—last Saturday or October—1st Saturday.	North Atlantic Ocean, VA Beach, VA, Safety Zone. B.	All waters of the North Atlantic Ocean within a 350 yard radius of approximate position latitude 36°50′35″ N, longitude 075°58′09″ W, located on the 14th Street Fishing Pier.
11	Friday, Saturday and Sunday Labor Day Weekend.	North Atlantic Ocean, VA Beach, VA, Safety Zone. C.	All waters of the North Atlantic Ocean within a 350 yard radius of approximate position latitude 36°49′55″ N, longitude 075°58′00″ W, located off the beach between 2nd and 6th streets.
12	July 4th	Nansemond River, Suffolk, VA, Safety Zone.	All waters of the Nansemond River within a 350 yard radius of approximate position latitude 36°44′27″ N, longitude 076°34′42″ W, located near Constant's Wharf in Suffolk, VA.
13	July 4th	Chickahominy River, Williamsburg, VA, Safety Zone.	All waters of the Chickahominy River within a 400 yard radius of the fireworks display in approximate position latitude 37°14′50″ N, longitude 076°52′17″ W, near Barrets Point, Virginia.
14	July—3rd, 4th and 5th	Great Wicomico River, Mila, VA, Safety Zone.	All waters of the Great Wicomico River located within a 420 foot radius of the fireworks display at approximate position latitude 37°50′31″ N, longitude 076°19′42″ W near Mila, Virginia.
15	July—1st Friday, Saturday and Sunday.	Cockrell's Creek, Reedville, VA, Safety Zone.	All waters of Cockrell's Creek located within a 420 foot radius of the fireworks display at approximate position latitude 37°49′54″ N, longitude 076°16′44″ W near Reedville, Virginia.
16	May—last Sunday	James River, Richmond, VA, Safety Zone.	All waters of the James River located within a 420 foot radius of the fireworks display at approximate position latitude 37°31′13.1″ N, longitude 077°25′07.84″ W near Richmond, Virginia.

TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983]

No.	Date	Location	Regulated area
17	June—last Saturday	Rappahannock River, Tappahannock, VA, Safety Zone.	All waters of the Rappahannock River located within a 400 foot radius of the fireworks display at approximate position latitude 37°55′12″ N, longitude 076°49′12″ W near Tappahannock, Virginia.
18	July 4th	Cape Charles Harbor, Cape Charles, VA, Safety Zone.	All waters of Cape Charles Harbor located within a 375 foot radius of the fireworks display at approximate position latitude 37°15′46.5″ N, longitude 076°01′30.3″ W near Cape Charles, Virginia.
19	July 3rd or 4th	Pagan River, Smithfield, VA, Safety Zone.	All waters of the Pagan River located within a 420 foot radius of the fireworks display at approximate position latitude 36°59′18″ N, longitude 076°37′45″ W near Smithfield, Virginia.
20	July 4th	Sandbridge Shores, Virginia Beach, VA, Safety Zone.	All waters of Sandbridge Shores located within a 300 foot radius of the fireworks display at approximate position latitude 36°43′24.9″ N, longitude 075°56′24.9″ W near Virginia Beach, Virginia.
21	July 4th, 5th or 6th	Chesapeake Bay, Virginia Beach, VA, Safety Zone.	All waters of Chesapeake Bay located within a 600 foot radius of the fireworks display at approximate position latitude 36°54′58.18″ N, longitude 076°06′44.3″ W near Virginia Beach, Virginia.
		(d.) Coast Guard Sector North Carolina—COTP Zone	
1	July 4th; October—1st Saturday.	Morehead City Harbor Channel, NC, Safety Zone.	All waters of the Morehead City Harbor Channel that fall within a 360 yard radius of latitude 34°43′01″ N, longitude 076°42′59.6″ W, a position located at the west end of Sugar Loaf Island, NC.
2	April—2nd Saturday; July 4th; August—3rd Monday; October—1st Saturday.	Cape Fear River, Wilmington, NC, Safety Zone.	All waters of the Cape Fear River within an area bound by a line drawn from the following points: Latitude 34°13′54″ N, longitude 077°57′06″ W; thence northeast to latitude 34°13′57″ N, longitude 077°57′05″ W; thence north to latitude 34°14′11″ N, longitude 077°57′07″ W; thence northwest to latitude 34°14′22″ N, longitude 077°57′19″ W; thence east to latitude 34°14′22″ N, longitude 077°57′06″ W; thence southeast to latitude 34°14′07″ N, longitude 077°57′00″ W; thence south to latitude 34°13′54″ N, longitude 077°56′58″ W; thence to the point of origin, located approximately 500 yards north of Cape Fear Memorial Bridge.
3	July 1st Saturday and July 4th ..	Green Creek and Smith Creek, Oriental, NC, Safety Zone.	All waters of Green Creek and Smith Creek that fall within a 300 yard radius of the fireworks launch site at latitude 35°01′29.6″ N, longitude 076°42′10.4″ W, located near the entrance to the Neuse River in the vicinity of Oriental, NC.
4	July 4th	Pasquotank River, Elizabeth City, NC, Safety Zone.	All waters of the Pasquotank River within a 300 yard radius of the fireworks launch barge in approximate position latitude 36°17′47″ N, longitude 076°12′17″ W, located approximately 400 yards north of Cottage Point, NC.
5	July 4th, or July 5th	Currituck Sound, Corolla, NC, Safety Zone.	All waters of the Currituck Sound within a 300 yard radius of the fireworks launch site in approximate position latitude 36°22′23.8″ N, longitude 075°49′56.3″, located near Whale Head Bay.
6	July 4th; November—3rd Saturday.	Middle Sound, Figure Eight Island, NC, Safety Zone.	All waters of the Figure Eight Island Causeway Channel from latitude 34°16′32″ N, longitude 077°45′32″ W, thence east along the marsh to a position located at latitude 34°16′19″ N, longitude 077°44′55″ W, thence south to the causeway at position latitude 34°16′16″ N, longitude 077°44′58″ W, thence west along the shoreline to position latitude 34°16′29″ N, longitude 077°45′34″ W, thence back to the point of origin.
7	June—2nd Saturday; July 4th ...	Pamlico River, Washington, NC, Safety Zone.	All waters of Pamlico River and Tar River within a 300 yard radius of latitude 35°32′25″ N, longitude 077°03′42″ W, a position located on the southwest shore of the Pamlico River, Washington, NC.
8	July 4th	Neuse River, New Bern, NC, Safety Zone.	All waters of the Neuse River within a 360 yard radius of the fireworks barge in approximate position latitude 35°06′07.1″ N, longitude 077°01′35.8″ W; located 420 yards north of the New Bern, Twin Span, high-rise bridge.
9	July 4th	Edenton Bay, Edenton, NC, Safety Zone.	All waters within a 300 yard radius of position latitude 36°03′04″ N, longitude 076°36′18″ W, approximately 150 yards south of the entrance to Queen Anne Creek, Edenton, NC.

TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983]

No.	Date	Location	Regulated area
10	July 4th. November—Saturday following Thanksgiving Day.	Motts Channel, Banks Channel, Wrightsville Beach, NC, Safety Zone.	All waters of Motts Channel within a 500 yard radius of the fireworks launch site in approximate position latitude 34°12′29″ N, longitude 077°48′27″ W, approximately 560 yards south of Sea Path Marina, Wrightsville Beach, NC.
11	July 4th	Cape Fear River, Southport, NC, Safety Zone.	All waters of the Cape Fear River within a 600 yard radius of the fireworks barge in approximate position latitude 33°54′40″ N, longitude 078°01′18″ W, approximately 700 yards south of the waterfront at Southport, NC.
12	July 4th	Big Foot Slough, Ocracoke, NC, Safety Zone.	All waters of Big Foot Slough within a 300 yard radius of the fireworks launch site in approximate position latitude 35°06′54″ N, longitude 075°59′24″ W, approximately 100 yards west of the Silver Lake Entrance Channel at Ocracoke, NC.
13	August—1st Tuesday	New River, Jacksonville, NC, Safety Zone.	All waters of the New River within a 300 yard radius of the fireworks launch site in approximate position latitude 34°44′45″ N, longitude 077°26′18″ W, approximately one half mile south of the Hwy 17 Bridge, Jacksonville, North Carolina.
14	July 4th	Pantego Creek, Belhaven, NC, Safety Zone.	All waters on the Pantego Creek within a 600 foot radius of the launch site on land at position 35°32′35″ N, 076°37′46″ W.
15	July 4th	Atlantic Intracoastal Waterway, Swansboro, NC, Safety Zone.	All waters of the Atlantic Intracoastal Waterway within a 300 yard radius of approximate position latitude 34°41′02″ N, longitude 077°07′04″ W, located on Pelican Island

Dated: July 2, 2014.

Stephen P. Metruck,

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

[FR Doc. 2014–17104 Filed 7–18–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0730]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Erie in Cedar Point, Ohio, for the Revolution 3 Triathlon in Cedar Point, Ohio. This zone will be enforced from 6 a.m. until 10 a.m. on each day of September 6 and 7, 2014. This action is necessary and intended to ensure safety of life on navigable waters during the Revolution 3 Triathlon. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Detroit.

DATES: The regulations in 33 CFR 165.941 will be enforced for safety zone (a)(60) in § 165.941, from 6 a.m. until 10 a.m. on each day of September 6 and 7, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST2 Daniel O'Leary, Prevention Department, Marine Safety Unit Toledo, 420 Madison Ave., Suite 700, Toledo, OH 43604; telephone (419) 418–6040; email *daniel.s.oleary@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Revolution 3 Triathlon safety zone listed as item (a)(60) of 33 CFR 165.941. Section 165.941 lists many annual events requiring safety zones in the Captain of the Port Detroit zone. This Revolution 3 Triathlon zone encompasses all waters and adjacent shoreline of Lake Erie located within an area that is approximately 200 yards. The area is within positions 41°29′00.04″ N 082°40′48.16″ W to 41°29′19.28″ N 082°40′38.97″ W to 41°29′02.51″ N 082°40′20.82″ W to 41°28′45.52″ N 082°40′35.75″ W then following the shoreline to the point of origin on Lake Erie during the annual Revolution 3 Triathlon from 6 a.m. until 10 a.m. on September 6 and 7, 2014.

All vessels must obtain permission from the Captain of the Port Detroit, or his or her on-scene representative to enter, move within, or exit the safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Detroit, or his or her designated representative.

This document is issued under authority of 33 CFR 165.941, Safety Zones; Annual events requiring safety zones in the Captain of the Port Detroit zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this event via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Detroit, or his or her on-scene representative, may be contacted via VHF Channel 16.

Dated: July 3, 2014.

S. B. Lemasters,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2014–17102 Filed 7–18–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0789; FRL–9913–42–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Minor New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. The revision will expedite the processing of certain preconstruction permits issued under West Virginia's minor New Source Review (NSR) Program. Notably, the revision will allow, in certain circumstances, construction prior to obtaining a permit, and will allow equipment and materials to be delivered and stored onsite prior to permit issuance. EPA is approving these revisions to West Virginia's minor NSR Program in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on August 20, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0789. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Gerallyn Duke, (215) 814–2084, or by email at *duke.gerallyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On February 14, 2014 (79 FR 8914), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. In the NPR, EPA proposed approval of revisions to rule 45CSR13: "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, Permission to Commence Construction, and Procedures for Evaluation." The West Virginia legislature adopted these revisions to rule 45CSR13 in 2008 and West Virginia submitted the formal SIP revision on July 20, 2009.

The purpose of this SIP revision is to shorten the time period by which permits for construction and operation may be issued for sources subject to minor NSR rules; to allow, in certain instances, construction prior to obtaining a permit; and to allow equipment and materials to be delivered and stored onsite prior to minor NSR permit issuance.

II. Summary of SIP Revision

The July 20, 2009 SIP revision will (a) reduce the time allotted for West Virginia Department of Environmental Protection (WVDEP) to process minor NSR permits from 180 days to 90 days after a permit application is deemed complete, (b) reduce the time for WVDEP to process temporary minor NSR permits from 60 days to 45 days after a complete application is received, and (c) reduce the time for WVDEP to process Class II general permits from 90 days to 45 days after a general permit registration application is deemed complete. The SIP revision also creates a mechanism for the following types of sources to commence construction prior to obtaining a permit, provided that operation does not commence until a permit is issued: New and modified stationary sources which are not major sources, major stationary sources proposing non-major modifications, and sources subject to general permits. Sources of hazardous air pollutants subject to CAA subsections 112(g) or 112(j), sources seeking "synthetic minor" permits to avoid otherwise applicable standards, and sources requiring specific case-by-case emission limits under 45CSR21 or 45CSR27 are ineligible for permission to commence construction in advance of permit issuance. Additionally, the SIP revision allows equipment and materials to be delivered and stored onsite prior to permit issuance and includes other minor clarifying changes to West Virginia's minor NSR rule.

If WVDEP determines that any proposed construction, modification, registration or relocation interferes with attainment or maintenance of an applicable ambient air quality standard, causes or contributes to a violation of an applicable air quality increment, or is inconsistent with the intent and purpose of 45CSR13, WVDEP shall issue an order denying the proposed activity. No permission to commence construction in advance of permit issuance is allowed if WVDEP deems it is inconsistent with any Federal requirement, Federal delegation, Federally approved requirement in any SIP, or Federally approved requirement under the title V permitting program.

Other specific requirements of the regulations and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving West Virginia's SIP submission dated July 20, 2009, which consists of a new version of 45CSR13 that revises West Virginia's minor NSR Program as a revision to the West Virginia SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 19, 2014. Filing a petition for reconsideration by the Administrator does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action related to West Virginia's minor NSR Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 17, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR Part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (c) is amended by revising the table heading and the entries for "[45 CSR] Series 13" to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA Approval date	Additional explanation/ citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 13 Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, Permission to Commence Construction and Procedures for Evaluation			
Section 45–13–1	General	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–2	Definitions	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–3	Reporting Requirements for Stationary Sources.	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–4	Administrative Updates to Existing Permits and General Permit Registrations.	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–5	Permit Application and Reporting Requirements for Construction of and Modifications to Stationary Sources.	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–6	Determination of Compliance of Stationary Sources.	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–7	Modeling	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–8	Public Review Procedures	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–9	Public Meetings	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–10	Permit Transfer, Suspension, Revocation and Responsibility.	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–11	Temporary Construction or Modification Permits.	6/1/09	7–21–14 [Insert **Federal Register** citation].	

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP—Continued

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA Approval date	Additional explanation/ citation at 40 CFR 52.2565
Section 45–13–12	Permit Application Fees	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–13	Inconsistency Between Rules	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–14	Statutory Air Pollution	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–15	Hazardous Air Pollutants	6/1/09	7–21–14 [Insert **Federal Register** citation].	
Section 45–13–16	Application for Permission to Commence Construction in Advance of Permit Issuance.	6/1/09	7–21–14 [Insert **Federal Register** citation].	New.
TABLE 45–13A	Potential Emission Rate	6/1/09	7–21–14 [Insert **Federal Register** citation].	
TABLE 45–13B	De Minimus Sources	6/1/09	7–21–14 [Insert **Federal Register** citation].	

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[FR Doc. 2014–16409 Filed 7–18–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket No. DARS–2014–0011]

48 CFR Chapter 2, Appendix A

Defense Federal Acquisition Regulation Supplement: Rules of the Armed Services Board of Contract Appeals (No DFARS Case)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update the Rules of the Armed Services Board of Contract Appeals (ASBCA). The final rule revises and reorders the Board's Rules for clarity and consistency and accounts for changes in technology, provides updated contact information, and adds two addendums.

DATES: Effective July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Jeffrey Gardin, Deputy General Counsel, ASBCA, 703–681–8502, or Catherine Stanton, General Counsel, ASBCA, 703–681–8501.

SUPPLEMENTARY INFORMATION:

I. Background

On February 28, 2014, DoD published a proposed rule in the **Federal Register** at 79 FR 11374 to revise the DFARS to update the Rules of the Armed Services Board of Contract Appeals at 48 CFR Chapter 2, Appendix A, Part 2. The rule proposed to revise and reorder the Board's Rules for clarity and consistency and account for changes in technology, remove contradictions, resolve ambiguities, provide updated contact information to allow for some electronic communication by litigants appearing before the Board, and added two addendums: *Equal Access to Justice Act Procedures* and *Alternative Methods of Dispute Resolution,* previously not formally contained in the Rules.

Two respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments is provided below. Minor changes were made to the final rule based on the comments.

A. Analysis of Public Comments

Comment 1: One respondent recommended that the Board consider implementing an electronic filing standard equivalent to the systems utilized by the federal court system.

Response: The Board's proposed Rules provide for electronic filing, formalizing the guidance currently issued to the parties concerning electronic filings. The Board has not identified advantages sufficient to justify an electronic filing system similar to those in use in the federal courts. Moreover, the Board has *pro se* and foreign appellants that sometimes do not have the capability to send or receive documents electronically. The Board considers this proposed change unnecessary.

Comment 2: Rule 1(a). One respondent recommended allowing the copy of the notice of appeal that the appellant sends to the contracting officer be transmitted in accordance with the methods outlined in Rule 2(a) and that, if the electronic mail option is used, the appellant must use an address reasonably calculated to reach the contracting officer.

Response: The proposed Rules currently allow notices of appeal to be transmitted via the methods set out in Rule 2(a). The Board sees no reason to single out copies of notices of appeal sent to contracting officers for special treatment. The Board considers this proposed change unnecessary.

Comment 3: Rule 1(b). One respondent commented that Rule 1(b) should include a requirement that appeals having an amount in dispute over $100,000 shall contain the certification required by FAR 33.207(c). The respondent stated that this would ensure that the mandate at FAR 33.207(f) is met as it would correct any defective certification "prior to the entry of . . . a decision by an agency BCA."

Response: Notices of appeal are not required to be certified under the Contract Disputes Act or the Federal Acquisition Regulation. Claims are required to be certified by the Contract Disputes Act, not the Board's Rules. The Board considers this proposed change unnecessary.

Comment 4: Rule 1(c). One respondent recommended that the Board provide its notification of docketing electronically and that, therefore, the filed appeal would need to include a valid email address for both

the appellant and the contracting officer.

Response: There is no reason that notices of docketing should be sent electronically, and no requirement that any party have the capability to send or receive documents electronically. The Board considers this proposed change unnecessary.

Comment 5: Rule 2. One respondent recommended that section 2(a)(3) be changed to read as follows:

"Electronic Mail-Documents, except appeal files submitted pursuant to Rule 4, hearing exhibits, classified documents, and documents submitted in camera or under a protective order, may be filed via electronic mail (email). Email attachments must be, absent Board permission, in PDF format. Email attachments may not, absent Board permission, exceed 10 megabytes total . . ."

The respondent commented that the proposed change provides the Board the discretion to accept documents in other formats and larger sized attachments, if the Board desires, and as technology changes.

Response: The Board already possesses discretion to grant exceptions to administrative requirements of its Rules on a case-by-case basis. The Board considers this proposed change unnecessary.

Comment 6: Rule 2(a)(3). One respondent recommended allowing electronic filing for documents submitted pursuant to Rule 4 and hearing exhibits.

Response: The Board approves the filing of appeal files and exhibits on CDs on a case-by-case basis, upon the request of a party, reserving the right to require the filing of a paper copy. The Board has not permitted the filing of appeal files as attachments to emails but has discretion to allow it should the Board deem it advisable. The Board considers this proposed change unnecessary.

Comment 7: Rules 2(b) and 3. One respondent noted that documents may be served, and copies to opposing parties may be transmitted, in accordance with the methods outlined in Rule 2(a) and recommended that, if the electronic mail option is used, the appellant must use an address reasonably calculated to reach the opposing party.

Response: This comment addresses a perceived problem that the Board has not encountered. The Board considers this proposed change unnecessary.

Comment 8: Rule 4(a). One respondent recommended that section (a) be changed to read as follows:

"(a) Duties of the Government. Within 30 days from receipt of the complaint or with the submission of the answer, whichever comes later, the Government shall transmit to the Board and the appellant an appeal file consisting of the documents the Government considers relevant to the appeal, including . . ."

The respondent noted that, currently the Rule 4 file is due 30 days from notice that an appeal has been filed, which is before the complaint is due. Often times it is difficult to know based on the claim and the final decision alone, what documents are relevant to the appeal. The complaint often provides the information needed to help determine which documents are relevant. Additionally, it can also be a challenge getting the base to send the Government trial attorneys the documents needed in the Rule 4 file by the deadline. To avoid having to request extensions or later supplement the Rule 4 file, the Rule 4 file should, at the very earliest, be due 30 days from receipt of the complaint or with the submission of the answer, whichever is later.

Response: The requirement for the government to file the appeal file within 30 days from notice of filing of the appeal has been in place for many decades. The government, having reviewed or asserted the claim and issued a contracting officer's decision, should be familiar with the facts and circumstances it considers relevant to the dispute. Appeal files almost always need to be supplemented as discovery progresses and requests for extensions are dealt with routinely. The Board has no documents concerning the substance of the appeal that pre-date the contracting officer's decision until the appeal file is filed, and therefore the Board is unable to analyze any aspect of the appeal until the appeal file is received. The Board considers this proposed change unnecessary.

Comment 9: Rule 4(b). One respondent recommended that section (b) be changed to read as follows:

"(b) Duties of the Parties. Either party may supplement the Rule 4 file at any time during or after the close of discovery and a reasonable amount of time prior to a scheduled hearing."

The respondent stated that, in practice, this recommended change is accomplished by the Board's scheduling order for submission of hearing exhibits. Also, there is no practical reason to require appellant to supplement within 30 days of the government's submission of the Rule 4 File. Appellants rarely follow this rule and the government rarely objects because final supplementation occurs after discovery.

Response: The Board perceives no reason to eliminate the current practice that requires appellants to timely file an appeal file.

Comment 10: Rule 4(c). One respondent commented that this Rule should clarify whether "numbered sequentially" applies to the individual documents in the appeal file, the page numbers within each document, or Bates numbers for the entire appeal file.

Response: The Rule will be modified to make it clear that "numbered sequentially" refers to the individually tabbed documents in the appeal file.

Comment 11: Rule 4(c). Two respondents recommended that this Rule be changed to allow documents to be submitted by email or on compact discs, digital versatile discs, or other electronic means.

Response: The Board approves the filing of appeal files and exhibits on CDs on a case-by-case basis, upon the request of a party, reserving the right to require the filing of a paper copy. The Board has not permitted the filing of appeal files as attachments to emails but has discretion to allow it should the Board deem it advisable. The Board considers this proposed change unnecessary.

Comment 12: Rule 5. One respondent recommended the Board incorporate its snow and other emergency day guidance in this Rule as it pertains to filing deadlines.

Response: Since the Board hears appeals nationally and internationally, we prefer to deal with emergency situations on a case-by-case basis so that rulings can be tailored to the relevant circumstances. The Board considers this proposed change unnecessary.

Comment 13: Rule 6. One respondent recommended that section (b) be changed to read as follows:

"(b) Government. Within 30 days from receipt of the complaint, or the aforesaid notice from the Board, the Government shall file with the Board an answer thereto. The answer shall admit or deny the allegations of the complaint and shall set forth simple, concise, and direct statements of the Government's defenses to each claim asserted by the appellant, including any affirmative defenses. If the Board has deemed appellant's claim and notice of appeal to set forth its complaint, pursuant to Rule 6(a), the Government shall file an answer within 30 days of receiving the Board's determination, in which the Government will make a reasonable attempt to admit or deny the factual allegations in appellant's claim and notice of appeal and state the Government's defenses to each claim asserted by the appellant. Should the answer not be timely received, the Board may enter a general denial on behalf of the Government, and the parties will be notified."

The respondent stated that this change addresses the issue of how the

Government should file its answer when the Appellant's notice of appeal and claim are deemed sufficient by the Board to serve as Appellant's complaint.

Response: Government pleadings in response to claims and/or notices of appeal that have been deemed to be appellants' complaint have not been a source of problems at the Board. The rules of pleading currently give government counsel sufficient flexibility to admit or deny on various bases the factual allegations in a deemed complaint. The Board considers this proposed change unnecessary.

Comment 14: Rule 9. One respondent recommended adding the following to the final sentence: "In an effort to implement cost saving measures, whenever feasible to meet the intended goals of the conference, the Board will make use of telephonic and video conferences to the full extent possible."

Response: The Board routinely allows party representatives and witnesses to appear by telephone or electronic means when appropriate. The Board considers this proposed change unnecessary.

Comment 15: Rule 12(d). One respondent recommended adding the following final sentence: "To the extent necessary to make adequate presentation of their factual and legal positions, the parties are encouraged to engage in voluntary discovery procedures and cooperative meetings to reach mutual consent on the scope, method, time, and place for discovery, and provisions for governing the disclosure of information or documents."

Response: Rule 12.2(a)(2),(b) and Rule 12.3(a),(b) address these matters. The Board considers this proposed change to Rule 12.1(d) to be unnecessary.

Comment 16: Rule 19. One respondent recommended that, as with the Expedited and Accelerated procedures under Rule 12, the Board should establish a maximum time in which decisions will be rendered under regular procedures.

Response: The Contract Disputes Act establishes time periods within which decisions should be rendered for expedited and accelerated appeals. No such time period is established for other appeals. The Board considers that other appeals vary so substantially in complexity and the need for extensive discovery and pre-trial motions, that any fixed time period would be arbitrary.

Comment 17: Rule 19(a). One respondent recommended adding language that would enable the Board to transmit its decisions electronically.

Response: The Board does transmit its decisions electronically when necessary. The Board considers this proposed change unnecessary.

Comment 18: Rule 22. One respondent recommended changing subsection (c)(l)(iii) to subsection (c)(2) since (iii) does not follow from (c)(l). In turn, this would necessitate changing (c)(2) to (c)(3). Also, respondent recommended deleting the word "contumacy," since the concept is already captured with "refusal to obey" and the word does not appear to comply with the Government's requirement to use plain language.

Response: The subsection confusion the respondent references is a result of a formatting error in the editing process after submittal by the Board. The Rule has been edited and renumbered. The language the respondent proposes be deleted is from 41 U.S.C. 7105(f). The Board considers this proposed change to be unnecessary.

B. Other Changes

DoD has incorporated other non-substantive editorial changes in the final rule consisting of minor wording and paragraph numbering changes for clarity.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule revises and reorders the *Rules of the Armed Services Board of Contract Appeals* for clarity and consistency, removes contradictions, resolves ambiguities, accounts for changes in technology, provides updated contact information to allow for some electronic communication by parties appearing before the Board, and adds two addendums, previously not formally contained in the Rules, that reflect current practice before the Board.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Chapter 2, Appendix A

Government procurement.

Amy G. Williams,

Deputy Director, Defense Acquisition Regulations System.

Therefore, 48 CFR chapter 2 is amended as follows:

CHAPTER 2—DEFENSE ACQUISITION REGULATIONS SYSTEM, DEPARTMENT OF DEFENSE

■ 1. The authority citation for Appendix A to Chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Appendix A to Chapter 2 is amended by revising Part 2—Rules to read as follows:

Appendix A to Chapter 2—Armed Services Board of Contract Appeals

Armed Services Board of Contract Appeals

* * * * *

Part 2—Rules

Approved 15 July 1963
Revised 1 May 1969
Revised 1 September 1973
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Preface

I. Jurisdiction for Considering Appeals

The Armed Services Board of Contract Appeals (referred to herein as the Board) has jurisdiction to decide any appeal from a final decision of a contracting officer, pursuant to the Contract Disputes Act, 41 U.S.C. 7101–7109, or its Charter, 48 CFR Chap. 2, App. A, Pt. 1, relative to a contract made by the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration or any other department or agency, as permitted by law.

II. Location and Organization of the Board

(a) The Board's address is Skyline Six, Room 703, 5109 Leesburg Pike, Falls Church, VA 22041–3208; telephone 703–681–8500 (general), 703–681–8502 (Recorder). The Board's facsimile number is 703–681–8535. The Board's Recorder's email address is *asbca.recorder@mail.mil.* The Board's Web site address is *http://www.asbca.mil.*

(b) The Board consists of a Chairman, two or more Vice Chairmen, and other Members,

all of whom are attorneys at law duly licensed by a state, commonwealth, territory, or the District of Columbia. Board Members are designated Administrative Judges.

(c) There are a number of divisions of the Board, established by the Chairman in such manner as to provide for the most effective and expeditious handling of appeals. The Chairman and a Vice Chairman act as members of each division. Hearings may be held by an Administrative Judge or by a duly authorized examiner. Except for appeals processed under the expedited or accelerated procedure (see Rules 12.2(c) and 12.3(c)), the decision of a majority of a division constitutes the decision of the Board, unless the Chairman refers the appeal to the Board's Senior Deciding Group (consisting of the Chairman, Vice Chairmen, all division heads, and the Judge who drafted the decision), in which event a decision of a majority of that group constitutes the decision of the Board. Appeals referred to the Senior Deciding Group are those of unusual difficulty or significant precedential importance, or that have occasioned serious dispute within the normal division decision process.

(d) The Board will to the fullest extent practicable provide informal, expeditious, and inexpensive resolution of disputes.

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Rules of the Armed Services Board of Contract Appeals

Addendums

Rules

Rule 1. Appeals

(a) *Taking an Appeal*—For appeals subject to the Contract Disputes Act, notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. The appellant (contractor) should also furnish a copy of the notice of appeal to the contracting officer. For appeals not subject to the Contract Disputes Act, the contractor should refer to the Disputes clause in its contract for the time period in which it must file a notice of appeal.

(1) Where the contractor has submitted a claim of $100,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not provided a decision within that period, or where such a contractor request has not been made and the contracting officer has not issued a decision within a reasonable time, the contractor may file a notice of appeal as provided in paragraph (a) of this Rule, citing the failure of the contracting officer to issue a decision.

(2) Where the contractor has submitted a properly certified claim over $100,000 to the contracting officer or has submitted a claim that involves no monetary amount, and the contracting officer, within 60 days of receipt of the claim, fails to issue a decision or fails to provide the contractor with a reasonable date by which a decision will be issued, and the contracting officer has failed to issue a decision within a reasonable time, the contractor may file a notice of appeal as provided in paragraph (a) of this Rule, citing the failure of the contracting officer to issue a decision.

(3) A reasonable time shall be determined by taking into account such factors as the size and complexity of the claim and the adequacy of the information provided by the contractor to support the claim.

(4) Where an appeal is before the Board pursuant to paragraph (a)(1) or (a)(2) of this Rule, the Board may, at its option, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board.

(5) In lieu of filing a notice of appeal under paragraph (a)(1) or (a)(2) of this Rule, the contractor may petition the Board to direct the contracting officer to issue a decision in a specified period of time as determined by the Board.

(b) *Contents of Notice of Appeal*—A notice of appeal shall indicate that an appeal is being taken and should identify the contract by number, the department and/or agency involved in the dispute, the decision from which the appeal is taken, and the amount in dispute, if any. A copy of the contracting officer's final decision, if any, should be attached to the notice of appeal. The notice of appeal should be signed by the appellant or by the appellant's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

(c) *Docketing of Appeal*—When a notice of appeal has been received by the Board, it will be docketed. The Board will provide a written notice of docketing to the appellant and to the Government.

Rule 2. Filing Documents

(a) Documents may be filed with the Board by the following methods:

(1) *Governmental Postal Service*—Documents may be filed via a governmental postal service. Filing occurs when the document, properly addressed and with sufficient postage, is transferred into the custody of the postal service. Contact the Recorder before submitting classified documents.

(2) *Courier*—Documents may be filed via courier. Filing occurs when the document is delivered to the Board. Contact the Recorder before submitting classified documents.

(3) *Electronic Mail*—Documents, except appeal files submitted pursuant to Rule 4, hearing exhibits, classified documents, and documents submitted in camera or under a protective order, may be filed via electronic mail (email). Email attachments should be in PDF format and the attachments may not exceed 10 megabytes total. The transmittal email should include the ASBCA docket number(s), if applicable, and the name of the appellant in the "Subject:" line. Filing occurs upon receipt by the Board's email server. When a document is successfully filed via email, the document should not also be submitted by any other means, unless so directed by the Board. Submit emails to: *asbca.recorder@mail.mil.*

(4) *Facsimile Transmission*—Documents, except appeal files submitted pursuant to Rule 4, hearing exhibits, classified documents, and documents submitted in camera or under a protective order, may be filed via facsimile (fax) machine. Due to equipment constraints, transmissions over 10 pages should not be made absent Board permission. Filing occurs upon receipt by the Board. When a document is successfully filed via fax, the document should not also be submitted by any other means, unless so directed by the Board.

(b) *Copies to Opposing Party*—The party filing any document with the Board will send a copy to the opposing party unless the Board directs otherwise, noting on the document filed with the Board that a copy has been so furnished.

Rule 3. Service Upon Other Parties

Documents may be served personally or by mail, addressed to the party upon whom service is to be made, unless the parties have agreed to an alternate means of service. Subpoenas shall be served as provided in Rule 22.

Rule 4. Preparation, Content, Organization, Forwarding, and Status of Appeal File

(a) *Duties of the Government*—Within 30 days of notice that an appeal has been filed, the Government shall transmit to the Board and the appellant an appeal file consisting of the documents the Government considers relevant to the appeal, including:

(1) The decision from which the appeal is taken;

(2) The contract, including pertinent specifications, amendments, plans, and drawings;

(3) All correspondence between the parties relevant to the appeal, including any claim in response to which the decision was issued.

The Government's appeal file may be supplemented at such times as are fair and reasonable and as ordered by the Board.

(b) *Duties of the Appellant*—Within 30 days after receipt of a copy of the Government's appeal file, the appellant shall transmit to the Board and the Government any documents not contained therein that the appellant considers relevant to the appeal. Appellant's appeal file may be supplemented at such times as are fair and reasonable and as ordered by the Board.

(c) *Organization of Appeal File*—Documents in the appeal file may be originals or legible copies, and shall be arranged in chronological order where practicable, tabbed with sequential numbers, and indexed to identify the contents of the file. Any document without internal page numbers shall have page numbers added. All documents must be in English or include an English translation. Documents shall be submitted in 3-ring binders, with spines not wider than 3 inches wide, with labels identifying the name of the appeal, ASBCA number and tab numbers contained in each volume, on the front and spine of each volume. Each volume shall contain an index of the documents contained in the entire Rule 4 submission.

(d) *Status of Documents in Appeal File*—Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party may object, for reasons stated, to the admissibility of a particular document reasonably in advance of hearing or, if there is no hearing, of settling the record, or in any case as ordered by the Board. If such objection is made, the Board will constructively remove the document from the appeal file and permit the party offering the document to move its admission as evidence in accordance with Rules 10, 11, and 13.

Rule 5. Time, Computation, and Extensions

(a) Where practicable, actions should be taken in less time than the time allowed. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time should be in writing and indicate that the other party was contacted to seek its concurrence.

(b) In computing any period of time, the day of the event from which the designated period of time begins to run will not be included, but the last day of the period will be included unless it is a Saturday, Sunday, or a Federal holiday, in which event the period will run to the next business day.

Rule 6. Pleadings

(a) *Appellant*—Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board a complaint setting forth simple, concise, and direct statements of each of its claims. The complaint shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed, if any. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form is required. Should the complaint not be timely received, the appellant's claim and notice of appeal may be deemed to set forth its complaint if, in the opinion of the Board, the issues before the Board are sufficiently defined, and the parties will be notified.

(b) *Government*—Within 30 days from receipt of the complaint, or the aforesaid notice from the Board, the Government shall file with the Board an answer thereto. The answer shall admit or deny the allegations of the complaint and shall set forth simple, concise, and direct statements of the Government's defenses to each claim asserted by the appellant, including any affirmative defenses. Should the answer not be timely received, the Board may enter a general denial on behalf of the Government, and the parties will be notified.

(c) *Foreign Law*—A party who intends to raise an issue concerning the law of a foreign country shall give notice in its pleadings or other reasonable written notice. The Board, in determining foreign law, may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under Rules 10, 11, or 13. The determination of foreign law shall be treated as a ruling on a question of law.

(d) *Further Pleadings*—The Board upon its own initiative or upon motion may order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The Board may permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may be admitted within the proper scope of the appeal, provided however, that the objecting party may be granted an opportunity to meet such evidence.

Rule 7. Motions

(a) *Motions Generally*—The Board may entertain and rule upon motions and may defer ruling as appropriate. The Board will rule on motions so as to secure, to the fullest extent practicable, the informal, expeditious, and inexpensive resolution of appeals. All motions should be filed as separate documents with an appropriate heading describing the motion. Oral argument on motions is subject to the discretion of the Board.

(b) *Jurisdictional Motions*—Any motion addressed to the jurisdiction of the Board should be promptly filed. An evidentiary hearing to address disputed jurisdictional facts will be afforded on application of either party or by order of the Board. The Board may defer its decision on the motion pending hearing on the merits. The Board may at any time and on its own initiative raise the issue of its jurisdiction, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

(c) *Summary Judgment Motions*—

(1) To facilitate disposition of such a motion, the parties should adhere to the following procedures. Where the parties agree that disposition by summary judgment or partial summary judgment is appropriate, they may file a stipulation of all material facts necessary for the Board to rule on the motion. Otherwise, the moving party should file with its motion a "Statement of Undisputed Material Facts," setting forth the claimed undisputed material facts in separate, numbered paragraphs. The non-moving party should file a "Statement of Genuine Issues of Material Fact," responding to each numbered paragraph proposed, demonstrating, where appropriate, the existence of material facts in dispute and if appropriate propose additional facts. The moving party and the non-moving party should submit a memorandum of law supporting or opposing summary judgment.

(2) In deciding motions for summary judgment, the Board looks to Rule 56 of the Federal Rules of Civil Procedure for guidance. The parties should explicitly state and support by specific evidence all facts and legal arguments necessary to sustain a party's position. Each party should cite to the record and attach any additional evidence upon which it relies (e.g., affidavits, declarations, excerpts from depositions, answers to interrogatories, admissions). The Board may accept a fact properly proposed and supported by one party as undisputed, unless the opposing party properly responds and establishes that it is in dispute.

(d) *Response to Motions*—A non-moving party has 30 days from receipt of a motion to file its response, unless a different period is ordered by the Board. A moving party has 30 days from receipt of a non-moving party's response to file a reply, unless a different period is ordered by the Board.

Rule 8. Discovery

(a) *General Policy and Protective Orders*—The parties are encouraged to engage in voluntary discovery procedures. Within 45 days after the pleadings have been filed, the parties must confer concerning each party's discovery needs, including the scheduling of discovery and the production of electronically stored information. Absent stipulation or a Board order, no discovery may be served prior to this conference. Any motion pertaining to a discovery dispute shall include a statement that the movant has in good faith attempted to resolve the discovery dispute without involvement of the Board. In connection with any discovery procedure, the Board may issue orders to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time, and place for discovery, and provisions for governing the disclosure of information or documents. Any discovery under this Rule shall be subject to the provisions of Rule 16 with respect to sanctions.

(b) *Depositions—When Permitted*—Subject to paragraph (a) of this Rule, a party may take, or the Board may upon motion order the taking of, testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for

purpose of discovery. The Board expects the parties to make persons under their control available for deposition. The motion for an order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(1) *Depositions—Orders*—The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(2) *Depositions—Use as Evidence*—No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent can testify at the hearing. The deposition may be used to contradict or impeach the testimony of the deponent given at a hearing. In cases submitted on the record, the Board may receive depositions to supplement the record.

(3) *Depositions—Expenses*—Each party shall bear its own expenses associated with the taking of any deposition, absent an agreement by the parties or a Board order to the contrary.

(4) *Depositions—Subpoenas*—Where appropriate, a party may request the issuance of a subpoena under the provisions of Rule 22.

(c) *Interrogatories, Requests for Admissions, Requests for Production*—Subject to paragraph (a) of this Rule, a party may serve, or the Board may upon motion order:

(1) Written interrogatories to be answered separately in writing, signed under oath and answered or objected to within 45 days after service;

(2) A request for the admission of specified facts and/or of the authenticity of any documents, to be answered or objected to within 45 days after service, the factual statements and/or the authenticity of the documents to be deemed admitted upon failure of a party to respond to the request; and

(3) A request for the production, inspection, and copying of any documents, electronic or otherwise, or objects, not privileged, which reasonably may lead to the discovery of admissible evidence, to be answered or objected to within 45 days after service. The Board may allow a shorter or longer time.

Rule 9. Pre-Hearing or Pre-Submission Conference

The Board may, upon its own initiative, or upon the request of either party, arrange a conference or order the parties to appear before an Administrative Judge or examiner for a conference to address any issue related to the prosecution of the appeal.

Rule 10. Hearings

(a) *Where and When Held*—Hearings will be held at such times and places determined by the Board to best serve the interests of the parties and the Board.

(b) *Unexcused Absence*—The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the evidentiary record will consist solely of the evidence of record at the conclusion of the hearing, except as ordered otherwise by the Board.

(c) *Nature of Hearings*—Hearings shall be as informal as may be reasonable and appropriate under the circumstances. The parties may offer such evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence or in the sound discretion of the presiding Administrative Judge or examiner. The Federal Rules of Evidence are not binding on the Board but may guide the Board's rulings. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

(d) *Examination of Witnesses*—Witnesses will be examined orally under oath or affirmation, unless the presiding Administrative Judge or examiner shall otherwise order. If the testimony of a witness is not given under oath or affirmation, the Board may advise the witness that his or her testimony may be subject to any provision of law imposing penalties for knowingly making false representations in connection with claims.

(e) *Interpreters*—In appropriate cases, the Board may order that an interpreter be used. An interpreter must be qualified and must be placed under oath or affirmation to give a complete and true translation.

(f) *Transcripts*—Testimony and argument at hearings will be reported verbatim, unless the Board otherwise orders. The Board will contract for a reporter. No other recordings of the proceedings will be made.

Rule 11. Submission Without a Hearing

(a) Either party may elect to waive a hearing and to submit its case upon the record. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, declarations, depositions, admissions, answers to interrogatories, and stipulations may be employed in addition to the Rule 4 file if moved and accepted into evidence. Such submissions may be supplemented by briefs. The Board may designate, with notice to the parties, any document to be made part of the record.

(b) As appropriate, the Board may also rely on pleadings, prehearing conference memoranda, orders, briefs, stipulations and other documents contained in the Board's file.

(c) Except as the Board may otherwise order, no evidence will be received after notification by the Board that the record is closed.

(d) The weight to be given to any evidence will rest within the discretion of the Board. The Board may require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

(e) The record will at all reasonable times be available for inspection by the parties at the offices of the Board.

Rule 12. Optional Small Claims (Expedited) and Accelerated Procedures

12.1 Elections To Utilize Small Claims (Expedited) and Accelerated Procedures

(a) In appeals where the amount in dispute is $50,000 or less, or in the case of a small business concern (as defined in the Small Business Act and regulations under that Act), $150,000 or less, the appellant may elect to have the appeal processed under a Small Claims (Expedited) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in section 12.2 of this Rule. An appellant may elect the Accelerated procedure rather than the Small Claims (Expedited) procedure for any appeal where the amount in dispute is $50,000 or less.

(b) In appeals where the amount in dispute is $100,000 or less, the appellant may elect to have the appeal processed under an Accelerated procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in section 12.3 of this Rule.

(c) The appellant's election of either the Small Claims (Expedited) procedure or the Accelerated procedure shall be made by written notice within 60 days after receipt of notice of docketing, unless such period is extended by the Board for good cause. The election, once made, may not be changed or withdrawn except with permission of the Board and for good cause.

(d) The 45-day conference required by Rule 8(a) does not apply to Rule 12 appeals.

12.2 Small Claims (Expedited) Procedure

(a) In appeals proceeding under the Small Claims (Expedited) procedure, the following time periods shall apply:

(1) Within 10 days from the Government's receipt of the appellant's notice of election of the Small Claims (Expedited) procedure, the Government shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any. Any other documents required under Rule 4 shall be submitted in accordance with times specified in that Rule unless the Board otherwise directs.

(2) Within 15 days after the Board has acknowledged receipt of the appellant's notice of election, the assigned Administrative Judge should take the following actions, if feasible, in a pre-hearing conference:

(i) Identify and simplify the issues;

(ii) Establish a simplified procedure, including discovery, appropriate to the particular appeal involved;

(iii) Determine whether either party elects a hearing, and if so, fix a time and place therefor; and

(iv) Establish an expedited schedule for the timely resolution of the appeal.

(b) Pleadings, discovery, and other prehearing activity will be allowed only as consistent with the requirement to conduct a hearing, or if no hearing is elected, to close the record on a date that will allow the

timely issuance of the decision. The Board may shorten time periods prescribed or allowed under these Rules as necessary to enable the Board to decide the appeal within the 120-day period.

(c) Written decisions by the Board in appeals processed under the Small Claims (Expedited) procedure will be short and will contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may at the conclusion of the hearing and after entertaining such oral argument as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties an authenticated copy of such oral decision for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under Rule 20.

(d) A decision under Rule 12.2 shall have no value as precedent, and in the absence of fraud, shall be final and conclusive and may not be appealed or set aside.

12.3 Accelerated Procedure

(a) In appeals proceeding under the Accelerated procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board may shorten time periods prescribed or allowed under these Rules as necessary to enable the Board to decide the appeal within the 180-day period.

(b) Within 30 days after the Board has acknowledged receipt of the appellant's notice of election, the assigned Administrative Judge should take the following actions, if feasible, in a pre-hearing conference:

(1) Identify and simplify the issues;

(2) Establish a simplified procedure, including discovery, appropriate to the particular appeal involved;

(3) Determine whether either party elects a hearing, and if so, fix a time and place therefor; and

(4) Establish an accelerated schedule for the timely resolution of the appeal.

(c) Written decisions by the Board in appeals processed under the Accelerated procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of a Vice Chairman, or by a majority among these two and the Chairman in case of disagreement.

12.4 Motions for Reconsideration in Rule 12 Appeals

Motions for reconsideration of appeals decided under either the Small Claims (Expedited) procedure or the Accelerated procedure need not be decided within the original 120-day or 180-day limit, but all such motions will be processed and decided promptly so as to be consistent with the intent of this Rule.

Rule 13. Settling the Record in Appeals With a Hearing

(a) The record upon which the Board's decision will be rendered consists of the documents admitted under Rule 4, the documents admitted into evidence as hearing exhibits, together with the hearing transcript. The Board may designate with notice to the parties, any document to be made part of the record.

(b) As appropriate, the Board may also rely on pleadings, pre-hearing conference memoranda, orders, briefs, stipulations, and other documents contained in the Board's file.

(c) Except as the Board may otherwise order, no evidence will be received after completion of an oral hearing.

(d) The weight to be given to any evidence will rest within the discretion of the Board. The Board may require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

(e) The record will at all reasonable times be available for inspection by the parties at the offices of the Board.

Rule 14. Briefs

(a) *Pre-Hearing Briefs*—The Board may require the parties to submit pre-hearing briefs. If the Board does not require pre-hearing briefs, either party may, upon appropriate and sufficient notice to the other party, furnish a pre-hearing brief to the Board.

(b) *Post-Hearing Briefs*—Post-hearing briefs may be submitted upon such terms as may be directed by the presiding Administrative Judge or examiner at the conclusion of the hearing.

Rule 15. Representation

(a) An individual appellant may represent his or her interests before the Board; a corporation may be represented by one of its officers; and a partnership or joint venture by one of its members; or any of these by an attorney at law duly licensed in any state, commonwealth, territory, the District of Columbia, or in a foreign country. Anyone representing an appellant shall file a written notice of appearance with the Board.

(b) The Government shall be represented by counsel. Counsel for the Government shall file a written notice of appearance with the Board.

Rule 16. Sanctions

If any party fails to obey an order issued by the Board, the Board may impose such sanctions as it considers necessary to the just and expeditious conduct of the appeal.

Rule 17. Dismissal or Default for Failure to Prosecute or Defend

Whenever the record discloses the failure of either party to file documents required by these Rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed with prejudice for failure to prosecute. In the case of a default by the Government, the Board may issue an order to show cause why the Board should not act thereon pursuant to Rule 16. If good cause is not shown, the Board may take appropriate action.

Rule 18. Suspensions; Dismissal Without Prejudice

(a) The Board may suspend the proceedings by agreement of the parties for settlement discussions, or for good cause shown.

(b) In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an inordinate length of time, the Board may dismiss such appeals from its docket for a period of time without prejudice to their restoration. Unless either party or the Board moves to reinstate the appeal within the time period set forth in the dismissal order, or if no time period is set forth, within one year from the date of the dismissal order, the dismissal shall be deemed to be with prejudice.

Rule 19. Decisions

(a) Decisions of the Board will be made in writing and authenticated copies of the decision will be sent simultaneously to both parties. All orders and decisions, except those as may be required by law to be held confidential, will be available to the public. Decisions of the Board will be made solely upon the record.

(b) Any monetary award shall be promptly paid.

(c) In awards that may be paid from the Judgment Fund, 31 U.S.C. 1304, the Recorder will forward the required forms to each party with the decision. If the parties do not contemplate an appeal or motion for reconsideration, they will execute the forms indicating that no judicial review will be sought. The Government agency will forward the required forms with a copy of the decision to the Department of the Treasury for certification of payment.

(d) When the parties settle an appeal in favor of the appellant, they may file with the Board a stipulation setting forth the amount of the settlement due to the appellant. By joint motion, the parties may request that the Board issue a decision in the nature of a consent judgment, awarding the stipulated amount to the appellant. These decisions will be processed in accordance with paragraph (c) of this Rule.

(e) After a decision has become final the Board may, upon request of a party and after notice to the other party, grant the withdrawal of original exhibits, or any part thereof. The Board may require the substitution of true copies of exhibits or any part thereof as a condition of granting permission for such withdrawal.

Rule 20. Motion for Reconsideration

A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to grant the motion. The motion must be filed within 30 days from the date of the receipt of a copy of the

decision of the Board by the party filing the motion. An opposing party must file any cross-motion for reconsideration within 30 days from its receipt of the motion for reconsideration. Extensions in the period to file a motion will not be granted. Extensions to file a memorandum in support of a timely-filed motion may be granted.

Rule 21. Remand from Court

Whenever any Court remands an appeal to the Board for further proceedings, each of the parties shall, within 30 days of receipt of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the Court's remand. The Board will consider the reports and enter an order governing the remanded appeal.

Rule 22. Subpoenas

(a) *Voluntary Cooperation*—Each party is expected:

(1) To cooperate and make available witnesses and evidence under its control as requested by the other party without issuance of a subpoena, and

(2) To secure voluntary attendance of desired third-party witnesses and production of desired third-party books, records, documents, or tangible things whenever possible.

(b) *General*—Upon written request of either party, or on his or her own initiative, an Administrative Judge may issue a subpoena requiring:

(1) *Testimony at a deposition*—The deposing of a witness in the city or county where the witness resides or is employed or transacts business in person, or at another location convenient for the witness that is specifically determined by the Board;

(2) *Testimony at a hearing*—The attendance of a witness for the purpose of taking testimony at a hearing; and

(3) *Production of books and records*—The production by the witness at the deposition or hearing of books and records (including electronically stored information and other tangible things) designated in the subpoena.

(c) *Request for Subpoena*—

(1) A request for subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought; or

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought.

(2) The Board may honor a request for subpoena not made within the time limitations set forth in paragraph (c)(1) of this Rule.

(3) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books and records sought. The Board may require resubmission of a request that does not provide this information.

(d) *Requests to Quash or Modify*—Upon written request by the person subpoenaed or by a party, made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may quash or modify the subpoena if it is unreasonable or oppressive or for other good cause shown, or require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy of the request has been served upon the opposing party.

(e) *Form of Subpoena*—

(1) Every subpoena shall state the name of the Board and the caption of the appeal, and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books and records at a time and place therein specified. In issuing a subpoena to a requesting party, the Administrative Judge will sign the subpoena, enter the name of the witness and may otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781.

(f) *Service*—

(1) The party requesting issuance of a subpoena shall arrange for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served in any state, commonwealth, territory, or the District of Columbia. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law. However, where the subpoena is issued on behalf of the Government, payment need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as a sufficient ground for striking such evidence as the Board deems appropriate.

(g) *Contumacy or Refusal to Obey a Subpoena*—In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board may apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board to give testimony or produce evidence or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

Rule 23. Ex Parte Communications

No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal, submit to the Board or the Board's staff, ex parte, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This Rule does not apply to consultation among Board members or its staff or to ex parte communications concerning the Board's administrative functions or procedures.

Rule 24. Effective Date

These rules and addendums are applicable to appeals processed under the Contract Disputes Act (CDA), 41 U.S.C. 7101–7109, and other appeals to the extent consistent with law. They apply to all appeals filed on or after the date of final publication in the **Federal Register**, and to those appeals filed before that date, unless that application is inequitable or unfair.

ADDENDUM I

EQUAL ACCESS TO JUSTICE ACT PROCEDURES

(a) *Definitions*—

For the purpose of these procedures:

(1) "Equal Access to Justice Act," or "EAJA," means 5 U.S.C. 504, as amended;

(2) "Board" means the Armed Services Board of Contract Appeals; and

(3) "Contract Disputes Act" means the Contract Disputes Act, 41 U.S.C. 7101–7109 (CDA).

(b) *Scope of procedures*—These procedures are intended to assist the parties in the processing of EAJA applications for award of fees and other expenses incurred in connection with appeals pursuant to the CDA.

(c) *Eligibility of applicants*—

(1) To be eligible for an EAJA award, an applicant must be a party appellant that has prevailed in a CDA appeal before the Board and must be one of the following:

(i) An individual with a net worth which did not exceed $2,000,000 at the time the appeal was filed; or

(ii) Any owner of an unincorporated business, or any partnership, corporation, association, unit of local Government, or organization, the net worth of which does not exceed $7,000,000 and which does not have more than 500 employees; except:

(A) Certain charitable organizations or cooperative associations; and

(B) For the purposes of 5 U.S.C. 504(a)(4), a small entity as defined in 5 U.S.C. 601, need not comply with any net worth requirement (see 5 U.S.C. 504(b)(1)(B)).

(2) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the underlying CDA appeal was filed with the Board.

(d) *Standards of awards*—A prevailing eligible applicant shall receive an award of fees and expenses incurred in connection with a CDA appeal, unless the position of the Government over which the applicant prevailed was substantially justified, or if special circumstances make the award unjust.

(e) *Allowable fees and other expenses*—

(1) Fees and other expenses must be reasonable. Awards will be based upon the prevailing market rates, subject to paragraph (e)(2) of this section, for the kind and quality of services furnished by attorneys, agents, and expert witnesses.

(2) No award for the fee of an attorney or agent may exceed $125 per hour. No expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the agency involved.

(3) The reasonable cost of any study, analysis, engineering report, test, or project, prepared on behalf of a party may be awarded, to the extent that the study or other matter was necessary in connection with the appeal and the charge for the service does not exceed the prevailing rate for similar services.

(f) *Time for filing of applications*—An application may be filed after an appellant has prevailed in the CDA appeal within 30 days after the Board's disposition of the appeal has become final.

(g) *Application contents*—

(1) An EAJA application shall comply with each of the following:

(i) Show that the applicant is a prevailing party;

(ii) Show that the applicant is eligible to receive an award;

(iii) Allege that the position of the government was not substantially justified; and

(iv) Show the amount of fees and other expenses sought, including an itemized statement thereof.

(2) An original and one copy of the application and exhibits should be filed with the Board. The applicant will forward one copy to the Government.

(3) When a compliant application has been timely filed, the Board, in order to obtain more detailed information, may require supplementation of the application.

(h) *Net worth exhibit*—Each applicant for which a determination of net worth is required under the EAJA should provide with its application a detailed net worth exhibit showing the net worth of the applicant when the CDA appeal was filed. The exhibit may be in any form convenient to the applicant that provides full disclosure of assets, liabilities, and net worth.

(i) *Fees and other expenses exhibit*—The application should be accompanied by a detailed fees and other expenses exhibit fully documenting the fees and other expenses, including the cost of any study, analysis, engineering report, test, or project, for which an award is sought. The date and a description of all services rendered or costs incurred should be indicated. A separate itemized statement should be submitted for each professional firm or individual whose services are covered by the application showing the hours spent in connection with the CDA appeal by each individual, a description of the particular services performed by specific date, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The Board may require the applicant to provide vouchers, receipts, or other substantiation for any expenses sought.

(j) *Answer to application*—

(1) Within 30 days after receipt by the Government of an application, the Government may file an answer. Unless the Government requests an extension of time for filing or files a statement of intent to negotiate under paragraph (2) below, failure to file an answer within the 30-day period may be treated by the Board at its discretion as a general denial to the application on behalf of the Government.

(2) If the Government and the applicant believe that the matters raised in the application can be resolved by mutual agreement, they may jointly file a statement of intent to negotiate a settlement. Filing of this statement will extend the time for filing an answer for an additional 30 days. Further extensions may be requested by the parties.

(3) The answer will explain in detail any objections to the award requested and identify the facts relied upon in support of the Government's position.

(4) An original and one copy of the answer should be filed with the Board. The Government will forward one copy to the applicant.

(k) *Reply*—Within 15 days after receipt of an answer, the applicant may file a reply. An original and one copy of the reply will be filed with the Board. The applicant will forward one copy to the Government.

(l) *Award proceedings*—

(1) The Board may enter an order prescribing the procedure to be followed or take such other action as may be deemed appropriate under the EAJA. Further proceedings will be held only when necessary for full and fair resolution of the issues arising from the application.

(2) A request that the Board order further proceedings under this paragraph will describe the disputed issues, explain why the additional proceedings are deemed necessary to resolve the issues and specifically identify any information sought and its relationship to the disputed issues.

(m) *Evidence*—

(1) *Decisions on the merits*—When a CDA appeal is decided on the merits, other than by a consent judgment, the record relating to whether the Government's position under the EAJA was substantially justified will be limited to the record in the CDA appeal. Evidence relevant to other issues in the award proceeding may be submitted.

(2) *Other dispositions*—When a CDA appeal is settled, or decided by a consent judgment, either party in proceedings under the EAJA may, for good cause shown, supplement the record established in the CDA appeal with affidavits and other supporting evidence relating to whether the position of the agency was substantially justified or other issues in the award proceeding.

(n) *Decisian*—Decisions under the EAJA will be rendered by the Administrative Judge or a majority of the judges who would have participated in a motion for reconsideration of the underlying CDA appeal. The decision of the Board will include written findings and conclusions and the basis therefor. The Board's decision on an application for fees and other expenses under the EAJA will be the final administrative decision regarding the EAJA application.

(o) *Motions for reconsideration*—Either party may file a motion for reconsideration. Motions for reconsideration must be filed within 30 days of receipt of the Board's EAJA decision. Extensions in the period to file a motion will not be granted. Extensions to file a memorandum in support of a timely filed motion may be granted.

(p) *Payment of Awards*—The Board's EAJA awards will be paid directly by the contracting agency over which the applicant prevailed in the underlying CDA appeal.

ADDENDUM II

Alternative Methods of Dispute Resolution

1. The Contract Disputes Act (CDA), 41 U.S.C. 7105(g)(1), states that boards of contract appeals "shall . . . to the fullest extent practicable provide informal, expeditious, and inexpensive resolution of disputes." Resolution of a dispute at the earliest stage feasible, by the fastest and least expensive method possible, benefits both parties. To that end, the parties are encouraged to consider Alternative Dispute Resolution (ADR) procedures for pre-claim and pre-final decision matters, as well as appeals pending before the Board. The Board may also conduct ADRs for any Federal agency. However, if the matter is not pending before the Board under its CDA jurisdiction, any settlement may not be paid out of the Judgment Fund.

2. The ADR methods described in this Addendum are intended to suggest techniques that have worked in the past. Any appropriate method that brings the parties together in settlement, or partial settlement, of their disputes is a good method. The ADR methods listed are not intended to preclude the parties' use of other ADR techniques that do not require the Board's participation, such as settlement negotiations, fact-finding conferences or procedures, mediation, or minitrials not involving use of the Board's personnel. Any method, or combination of methods, including one that will result in a binding decision, may be selected by the parties without regard to the dollar amount in dispute.

3. The parties must jointly request ADR procedures at the Board. The request must be approved by the Board. The Board may also schedule a conference to explore the desirability and selection of an ADR method and related procedures. If an ADR involving the Board's participation is requested and approved by the Board, a Neutral will be appointed. If an Administrative Judge has already been assigned to an appeal, the same judge will normally be assigned to be the Neutral in an ADR. If an Administrative Judge has not yet been assigned to the appeal, or if the subject of the ADR is a matter pending before the contracting officer prior to any appeal, the Board will appoint an Administrative Judge to be the Neutral. In such instances, as well as situations in which the parties prefer that an assigned Administrative Judge not be appointed to serve as the Neutral, the parties may submit a list of at least three preferred Administrative Judges and the Board will endeavor to accommodate their preferences.

4. To facilitate full, frank and open discussion and presentations, any Neutral who has participated in a non-binding ADR procedure that has failed to resolve the underlying dispute will be recused from further participation in the matter unless the parties expressly agree otherwise in writing and the Board concurs. Further, the recused Neutral will not discuss the merits of the dispute or substantive matters involved in

the ADR proceedings with other Board personnel.

5. Written material prepared specifically for use in an ADR proceeding, oral presentations made at an ADR proceeding, and all discussions in connection with such proceedings between the parties and the Neutral are confidential and, unless otherwise specifically agreed by the parties, inadmissible as evidence in any pending or future Board proceeding involving the parties or matter in dispute. However, evidence otherwise admissible before the Board is not rendered inadmissible because of its use in the ADR proceeding.

6. The ADR method and the procedures and requirements implementing the ADR method will be prescribed by the written agreement of the parties and approved by the Board. ADR methods can be used successfully at any stage of the litigation.

7. The following are examples of ADR methods commonly used at the Board:

(a) *Nonbinding*—

Mediations: A Neutral is an Administrative Judge who will not normally hear or have any formal or informal decision-making authority in the matter and who is appointed for the purpose of facilitating settlement. In many circumstances, settlement can be fostered by a frank, in-depth discussion of the strengths and weaknesses of each party's position with the Neutral. The agenda for meetings with the Neutral will be flexible to accommodate the requirements of the case. To further the settlement effort, the Neutral may meet with the parties either jointly or individually. A Neutral's recommendations are not binding on the parties. When this method is selected, the ADR agreement must contain a provision in which the parties and counsel agree not to subpoena the Neutral in any legal action or administrative proceeding of any kind to produce any notes or documents related to the ADR proceeding or to testify concerning any such notes or documents or concerning his/her thoughts or impressions.

(b) *Binding*—

Summary Proceeding With Binding Decision: A summary proceeding with binding decision is a procedure whereby the resolution of the appeal is expedited and the parties try their appeal informally before an Administrative Judge. A binding "bench" decision may be issued upon conclusion of the proceeding, or a binding summary written decision will be issued by the judge no later than ten days following the later of conclusion of the proceeding or receipt of a transcript. The parties must agree in the ADR agreement that all decisions, rulings, and orders by the Board under this method shall be final, conclusive, not appealable, and may not be set aside, except for fraud. All such decisions, rulings, and orders will have no precedential value. Pre-hearing, hearing, and post-hearing procedures and rules applicable to appeals generally will be modified or eliminated to expedite resolution of the appeal.

(c) *Other Agreed Methods*—

The parties and the Board may agree upon other informal methods, binding or nonbinding that are structured and tailored to suit the requirements of the individual case.

8. The above-listed ADR procedures are intended to shorten and simplify the Board's more formalized procedures. Generally, if the parties resolve their dispute by agreement, they benefit in terms of cost and time savings and maintenance or restoration of amicable relations. The Board will not view the parties' participation in ADR proceedings as a sign of weakness. Any method adopted for dispute resolution depends upon both parties having a firm, good faith commitment to resolve their differences. Absent such intention, the best structured dispute resolution procedure is unlikely to be successful.

[FR Doc. 2014–17056 Filed 7–18–14; 8:45 am]

BILLING CODE 5001–06–P

Proposed Rules

Federal Register
Vol. 79, No. 139
Monday, July 21, 2014

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

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 32 and 35

[NRC–2014–0030]

RIN 3150–AI63

Medical Use of Byproduct Material—Medical Event Definitions and Training and Experience

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guidance document entitled "Draft Guidance for the Proposed Rule 'Medical Use of Byproduct Material—Medical Events Definitions, Training and Experience, and Clarifying Amendments.'" This draft guidance document addresses implementation of the NRC's proposed rule amending its medical use of byproduct material regulations.

DATES: Submit comments by November 18, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0030. 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 (RADB), Office of Administration, Mail Stop: 3WFN–06–A44MP, 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: Donna-Beth Howe, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7848; email: *Donna-Beth.Howe@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0030 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–2014–0030.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The 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 guidance document is available in ADAMS under Accession No. ML13172A189.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0030 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

In the Proposed Rule section of this issue of the **Federal Register**, the NRC published the proposed rule, "Medical Use of Byproduct Material—Medical Event Definitions, Training and Experience, and Clarifying Amendments" (RIN 3150–AI63, NRC–2014–0030). The proposed rule would amend requirements in parts 30, 32, and 35 of Title 10 of the *Code of Federal Regulations,* for reporting and notification of a medical event for permanent implant brachytherapy; training and experience for authorized users, medical physicists, Radiation Safety Officers and nuclear pharmacists; and measuring molybdenum contamination and reporting of failed technetium and rubidium generators. The rule also proposes changes that would allow Associate Radiation Safety Officers to be named on a medical use license and other clarifying revisions to the regulations. Finally, the proposed rule addresses a request filed in a petition for rulemaking (PRM), PRM–35–20, to "grandfather" certain board-certified individuals so that they are exempt from certain training and experience requirements.

In conjunction with the proposed rule, the NRC has developed a draft guidance document which would provide guidance to a licensee or

applicant for implementation of the proposed regulations. The draft guidance document is intended for use by applicants, licensees, Agreement States, and the NRC staff. The draft guidance document (ADAMS Accession No. ML13172A189) has three parts: The first two are revisions to existing guidance in the NUREG–1556, "Consolidated Guidance About Materials Licenses", series of volumes for medical uses and commercial nuclear pharmacies; and the third part is a series of questions and answers to assist licensees in understanding and implementing the new proposed regulatory changes. The NUREG–1556 documents mainly provide guidance to applicants in the completion and submission of materials license applications. The documents also include model procedures that an applicant may want to use when developing its radiation safety program, as well as tools that licensees may employ when completing the corresponding material license applications.

Parts 1 and 2 of the draft guidance document will be incorporated into the next comprehensive revision of relevant volumes of NUREG–1556.

Part 3 of the draft guidance document will be added to the NRC's Medical Uses Licensee Toolkit Web site (*http://www.nrc.gov/materials/miau/med-use-toolkit.html*) when the questions and answers are finalized.

Dated at Rockville, Maryland, this 10th day of March 2014.

Laura A. Dudes,

Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials, and Environmental Management Programs.

[FR Doc. 2014–16752 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 348 and 390

RIN 3064–AE20

Transferred OTS Regulations and FDIC Regulations Regarding Management Official Interlocks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this notice of proposed rulemaking, the Federal Deposit Insurance Corporation ("FDIC") proposes to rescind and remove parts of our regulations, entitled "Management Official Interlocks" relating to State savings associations. This subpart was included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision ("OTS") on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). The requirements for State savings associations in the transferred OTS regulations are substantively similar to those in the FDIC's regulations, which is also entitled "Management Official Interlocks" and is applicable for all insured depository institutions ("IDIs") for which the FDIC has been designated the appropriate Federal banking agency.

Upon removal of the transferred OTS regulations applicable for all IDIs for which the FDIC has been designated the appropriate Federal banking agency will be found in our regulations.

DATES: Comments must be received on or before September 19, 2014.

ADDRESSES: You may submit comments by any of the following methods:

- *FDIC Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow instructions for submitting comments on the agency Web site.
- *FDIC Email: Comments@fdic.gov.* Include RIN # 3064–AE20 on the subject line of the message.
- *FDIC Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery to FDIC:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m.

Please include your name, affiliation, address, email address, and telephone number(s) in your comment. Where appropriate, comments should include a short Executive Summary consisting of no more than five single-spaced pages. All statements received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. You should submit only information that you wish to make publicly available.

Please note: All comments received will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal/*, including any personal information provided. Paper copies of public comments may be requested from the Public Information Center by telephone at 1–877–275–3342 or 1–703–562–2200.

FOR FURTHER INFORMATION CONTACT: Martha L. Ellett, Legal Division, (202) 898–6765; Mark Mellon, Legal Division, (202) 898–3884; Jennifer Maree, Legal Division, (202) 898–6543; Deborah S. Calvert, Division of Risk Management Supervision, (703) 254–0976.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

The Dodd-Frank Act [1] provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act, codified at 12 U.S.C. 5411, ("Transfer Date"), the powers, duties, and functions formerly performed by the OTS were respectively divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency ("OCC"), as to Federal savings associations, and the Board of Governors of the Federal Reserve System ("FRB"), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(b), provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the Transfer Date, they continue to be in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(c), further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations which would be enforced by the FDIC and the OCC, respectively. On June 14, 2011, the FDIC's Board of Directors approved a "List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act." This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[2]

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act, codified at 12 U.S.C. 5412(b)(2)(B)(i)(II), granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5301 *et seq.*).

[2] 76 FR 39247 (July 6, 2011).

Act affected the FDIC's existing authority to issue regulations under the Federal Deposit Insurance Act ("FDI Act") and other laws as the "appropriate Federal banking agency" or under similar statutory terminology. Section 312(c) of the Dodd-Frank Act amended the definition of "appropriate Federal banking agency" contained in section 3(q) of the FDI Act, 12 U.S.C. 1813(q), to add State savings associations to the list of entities for which the FDIC is designated as the "appropriate Federal banking agency." As a result, when the FDIC acts as the designated "appropriate Federal banking agency," or under similar terminology, for State savings associations, as it does here, the FDIC is authorized to issue, modify and rescind regulations involving such associations, as well as for State nonmember banks and insured branches of foreign banks.

As noted, on June 14, 2011, pursuant to this authority, the FDIC's Board of Directors reissued and redesignated certain transferring regulations of the former OTS. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[3] When it republished the transferred OTS regulations as new FDIC regulations, the FDIC specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC rules, amending them, or rescinding them, as appropriate.

One of the OTS rules transferred to the FDIC governed management official interlocks. The OTS rule, formerly found at 12 CFR part 563f ("part 563f"), was transferred to the FDIC with only minor, nonsubstantive changes and is now found in the FDIC's rules at part 390, subpart V, entitled "Management Official Interlocks." Before the transfer of the OTS rules and continuing today, the FDIC's rule contained in part 348, also entitled "Management Official Interlocks," prohibits a management official from serving two nonaffiliated depository organizations in situations where the management interlock likely would have an anticompetitive effect. After careful review and comparison of part 390, subpart V and part 348, the FDIC proposes to rescind part 390, subpart V, because, as discussed below, it is substantively redundant to existing part 348. Simultaneously we propose to make technical conforming edits to our existing rule and add an exemption to part 348 applicable to State savings associations which have issued stock in connection with a qualified stock issuance pursuant to section 10(q) of HOLA.[4]

FDIC's Existing 12 CFR Part 348 and Former OTS's Part 563f (Transferred, In Part, to FDIC's Part 390, Subpart V)

The Depository Institution Management Interlocks Act ("Interlocks Act")[5] was enacted as Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978.[6] The Interlocks Act generally prohibits bank management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies ("depository organizations"). The purpose of the Interlocks Act and the rules governing management interlocks generally is to foster competition between unaffiliated institutions. Thus, the Interlocks Act seeks to prohibit interlocks that could enable two institutions to engage in anticompetitive behavior. The scope of the prohibition depends on the size and location of the organizations involved. For example, the Interlocks Act prohibits interlocks between unaffiliated depository organizations, regardless of size, if each organization has an office in the same community (the "community prohibition"). Interlocks are also prohibited between unaffiliated depository organizations if each organization has total assets of $50 million or more and has an office in the same relevant metropolitan statistical area ("RMSA") (the "RMSA prohibition"). The Interlocks Act also prohibits interlocks between unaffiliated depository organizations, regardless of location, if each organization has total assets exceeding specified thresholds (the "major assets prohibition").

On July 19, 1979, the FDIC, the OTS,[7] the OCC, and the FRB (collectively, the "Federal banking agencies"), published a joint final rule to implement the statutory mandates of the Interlocks Act.[8] On August 2, 1996, in order to comply with the mandate of section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 ("CDRI Act"),[9] the Federal banking agencies published a joint final rule[10] to implement revisions to the Management Official Interlocks regulations.

Section 303(a) of the CDRI Act, requires the Federal banking agencies to conduct a systematic review of their regulations and written policies in order to streamline and modify them to improve efficiency, reduce unnecessary costs, and eliminate constraints on credit availability.[11] Section 303(a) also instructs the Federal banking agencies to remove inconsistencies and outmoded and duplicative requirements.[12] Finally, section 303(a) requires the Federal banking agencies to consult and coordinate with one another "to make uniform all regulations and guidelines implementing common statutory or supervisory policies."[13] Pursuant to the CDRI's mandate, the Federal banking agencies consulted and coordinated with respect to this rulemaking and on an interagency basis jointly issued rules that are substantively similar with regard to management official interlocks.[14] Accordingly, the portion of the OTS regulations that applied to State savings associations and their affiliates, originally codified at 12 CFR part 563f and subsequently transferred to FDIC's part 390, subpart V, is substantively similar to the current FDIC regulations in part 348, with the following exceptions. Specifically, part 348 of the FDIC regulations applies to management officials of insured nonmember banks and their affiliates,[15] while part 390, subpart V applies to management officials of State savings associations and their affiliates.[16] part 390, subpart V also contains an exception from the prohibition against management interlocks that is not included in part 348. This exception, found in 390.403(i), allows a State savings association that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of HOLA to be exempt from the prohibition against management interlocks.[17] By amending part 348 and rescinding part 390, subpart V, the FDIC will streamline its regulations and reduce redundancy.

[3] 76 FR 47652 (Aug. 5, 2011).

[4] Home Owners' Loan Act, Public Law 101–73; § 301, 103 Stat. 277, (1989) (codified at 12 U.S.C. 1461 *et seq.*)

[5] 12 U.S.C. 3201 *et seq.*

[6] Public Law 95–630, 92 Stat. 3665 (Nov. 10, 1978).

[7] The joint rulemaking included the Federal Home Loan Bank Board, the OTS's predecessor agency.

[8] 44 FR 42152 (July 19, 1979).

[9] 12 U.S.C. 4803(a).

[10] 61 FR 40293 (Aug. 2, 1996).

[11] 12 U.S.C. 4308(a)(1)(A).

[12] 12 U.S.C. 4308(a)(1)(B).

[13] 12 U.S.C. 4308(a)(3).

[14] 61 FR 40293 (Aug. 2, 1996).

[15] 12 CFR 348.1.

[16] 12 CFR 390.400.

[17] The Interlocks Act contains an additional exemption for interlocks as a result of an emergency acquisition of a savings association authorized in accordance with section 13(k) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)) if the FDIC has given its approval to the interlock. The FDIC will continue to list this additional exemption in its management interlocks regulation in part 348.

Although the former OTS rule part 563f applies to management officials of savings and loan holding companies, the FDIC does not supervise savings and loan holding companies for purposes of this rule. Section 312 of the Dodd-Frank Act[18] divides and transfers the functions of the former OTS to the FDIC, OCC, and FRB by amending section 1813(q) of the FDI Act. Specifically, section 312 transfers the former OTS's power to regulate State savings associations to the FDIC, while it transfers the power to regulate savings and loan holding companies to the FRB.[19] As a result, whereas the former OTS part 563f applied to savings associations and their affiliates as well as to savings and loan holding companies,[20] upon transfer of part 563f to FDIC's Part 390, subpart V, only the authority over State savings associations and their affiliates was transferred to the FDIC for purposes of this rule.[21] The FRB currently has jurisdiction over the regulation and supervision of management official interlocks as it applies to savings and loan holding companies.[22]

After careful comparison of the FDIC's part 348 with the transferred OTS rule in part 390, subpart V, the FDIC has concluded that, with the exception of the scope of the two sections and the newly created section 348.4(j) that carries over the qualified stock issuance exemption from the former OTS rule, the transferred OTS rules governing management official interlocks are substantively redundant. Therefore, based on the foregoing, the FDIC proposes to rescind and remove from the Code of Federal Regulations the rules located at 12 CFR part 390, subpart V; to make minor conforming changes to part 348 to incorporate State savings associations; and to insert the OTS's exemption for State savings associations which have issued stock in connection with a qualified stock issuance pursuant to section 10(q) of HOLA located in section 390.403(i) into a newly created section 348.4(j) in the FDIC's rule. If the proposal is adopted in final form, all IDIs regulated by the FDIC—including State savings associations—will be regulated in a uniform manner.

II. The Proposal

Regarding the functions of the former OTS that were transferred to the FDIC, section 316(b)(3) of the Dodd-Frank Act, 12 U.S.C. 5414(b)(3), in pertinent part, provides that the former OTS regulations will be enforceable by the FDIC until they are modified, terminated, set aside, or superseded in accordance with applicable law. After reviewing the rules currently found in part 390, subpart V, the FDIC, as the appropriate Federal banking agency for State savings associations, proposes to rescind part 390, subpart V in its entirety.

The FDIC also proposes to modify the scope of part 348, section 348.1(c), to apply to "management officials of FDIC-supervised institutions and their affiliates" to conform to and reflect the scope of the FDIC's current supervisory responsibilities as the appropriate Federal banking agency. The FDIC also proposes to add two new definitions into section 348.2. A newly created subsection (i) would define an "FDIC-supervised institution" as "either an insured nonmember bank or a State savings association." A newly created subsection (p) would define "State savings association" as having "the same meaning as in section 3(b)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)(3)." The FDIC would also make conforming amendments throughout the regulation to reflect the new scope of the regulation. These amendments would conform to and reflect the scope of the FDIC's current supervisory responsibilities as the appropriate Federal banking agency.

Finally, the proposal would insert an exemption from part 390, subpart V, section 390.403(i), into a newly created subsection (j) of section 348.4. The exemption allows certain interlocking relationships for any State savings association which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of HOLA. Because the Interlocks Act provides for this statutory requirement,[23] the qualified stock issuance exemption in section 390.403(i) must carry forward to the FDIC's rule in part 348.

If the proposal is finalized, oversight of management official interlocks in part 348 would apply to all FDIC-supervised institutions, including State savings associations and their affiliates, and part 390, subpart V would be removed because it is largely duplicative of those rules found in part 348. Rescinding part 390, subpart V will serve to streamline the FDIC's rules and eliminate unnecessary regulations.

III. Request for Comments

The FDIC invites comments on all aspects of this proposed rulemaking, and specifically requests comments on the following:

(1) Are there any specific provisions of part 348 that are outdated or obsolete, or are behind industry standards? If so, please describe and recommend alternate disclosure and reporting methodology.

(2) Are the provisions of proposed part 348 sufficient to provide adequate disclosure and reporting of CRA-related agreements? Are the provisions of proposed part 348 overly burdensome? Please substantiate your answer.

(3) What impacts, positive or negative, can you foresee in the FDIC's proposal to rescind part 390, subpart V?

Written comments must be received by the FDIC no later than September 19, 2014.

IV. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act ("PRA") of 1995, 44 U.S.C. 3501–3521, 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.

The Proposed Rule would rescind and remove from FDIC regulations part 390, subpart V. This rule was transferred with only nominal changes to the FDIC from the OTS when the OTS was abolished by Title III of the Dodd-Frank Act. Part 390, subpart V is largely redundant of the FDIC's existing part 348 regarding disclosure and reporting of CRA-related agreements. The information collection contained in part 348 is cleared by OMB under the FDIC's "Management Official Interlocks" information collection (OMB No. 3064–0118). The FDIC reviewed its burden estimate for the collection at the time it assumed responsibility for supervision of State savings associations transferred from the OTS and obtained OMB approval to adjust the burden estimates as necessary.

This Proposed Rule will not modify the FDIC's existing collection and does not involve any new collections of information pursuant to the PRA.

Finally, the Proposed Rule would amend part 348 to include State savings associations and their affiliates and would amend section 348.2 to define "State savings association." These measures clarify that State savings associations and their affiliates, as well as insured nonmember banks and their

[18] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5412 *et seq.*).

[19] 12 U.S.C. 5412.

[20] 12 CFR 563f.

[21] 12 CFR 390.400.

[22] 12 CFR 212.1.

[23] 12 U.S.C. 3204(9).

affiliates are subject to part 348. The Proposed Rule would also insert the qualified stock issuance exemption in section 390.403(i) into a newly created subsection (j) of section 348.4. These provisions of the Proposed Rule will not involve any new collection of information under the PRA or impact current burden estimates. Based on the foregoing, no information collection request has been submitted to the OMB for review.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"),[24] requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $500 million).[25] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule. For the reasons provided below, the FDIC certifies that the Proposed Rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

As discussed in this notice of proposed rulemaking, part 390, subpart V was transferred from OTS's part 563f, which governed management official interlocks. OTS's part 563f had been in effect since 1979, and all savings associations were required to comply with it. Because it is duplicative of existing part 348 of the FDIC's rules, the FDIC proposes rescinding and removing part 390, subpart V. As a result, all FDIC-supervised institutions—including State savings associations and their affiliates—would be required to comply with part 348. Because all State savings associations and their affiliates have been required to comply with substantially similar management official interlocks rules since 1979, today's Proposed Rule would have no significant economic impact on any State savings association.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, codified at 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. The FDIC invites comments on whether the Proposed Rule is clearly stated and effectively organized, and how the FDIC might make it easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could it present the rule more clearly?
- Have we clearly stated the requirements of the rule? If not, how could the rule be more clearly stated?
- Does the rule contain technical jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

D. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA"), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured institutions.[26] The FDIC completed the last comprehensive review of its regulations under EGRPRA in 2006 and is commencing the next decennial review. The action taken on this rule will be included as part of the EGRPRA review that is currently in progress. As part of that review, the FDIC invites comments concerning whether the Proposed Rule would impose any outdated or unnecessary regulatory requirements on insured depository institutions. If you provide such comments, please be specific and provide alternatives whenever appropriate.

List of Subjects

12 CFR Part 348

Banks, banking; management official interlocks; savings associations.

12 CFR Part 390, Subpart V

Management Official Interlocks.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 348 of title 12 of the Code of Federal Regulations and amend part 390, of title 12 of the Code of Federal Regulations by removing subpart V as set forth below:

■ 1. Revise part 348 to read as follows:

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

§ 348.1 Purpose and scope of this part.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act (Interlocks Act) (12 U.S.C. 3201 *et seq.*), as amended.

(b) *Purpose.* The purpose of the Interlocks Act and this part is to foster competition by generally prohibiting a management official from serving two nonaffiliated depository organizations in situations where the management interlock likely would have an anticompetitive effect.

(c) *Scope.* This part applies to management officials of FDIC-supervised institutions and their affiliates.

§ 348.2 Other definitions and rules of construction used in this part.

For purposes of this part, the following definitions apply:

(a) *Affiliate.* (1) The term affiliate has the meaning given in section 202 of the Interlocks Act (12 U.S.C. 3201). For purposes of section 202, shares held by an individual include shares held by members of his or her immediate family. "Immediate family" means spouse, mother, father, child, grandchild, sister, brother or any of their spouses, whether or not any of their shares are held in trust.

(2) For purposes of section 202(3)(B) of the Interlocks Act (12 U.S.C. 3201(3)(B)), an affiliate relationship involving an FDIC-supervised institution based on common ownership does not exist if the FDIC determines, after giving the affected persons the opportunity to respond, that the asserted affiliation was established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the FDIC considers, among other things, whether a person, including members of his or her immediate family whose shares are necessary to constitute the group, owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate to that person's ownership of shares in the other organization.

[24] 5 U.S.C. 601 *et seq.*

[25] 78 FR 37409, 37411 (June 20, 2013).

[26] Public Law 104–208, 110 Stat. 3009 (Sept. 30, 1996).

(b) *Area median income* means:

(1) The median family income for the metropolitan statistical area (MSA), if a depository organization is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a depository organization is located outside an MSA.

(c) *Community* means a city, town, or village, and contiguous or adjacent cities, towns, or villages.

(d) *Contiguous or adjacent cities, towns, or villages* means cities, towns, or villages whose borders touch each other or whose borders are within 10 road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is the boundary line of that city, town, or village for the purpose of this definition.

(e) *Depository holding company* means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act (12 U.S.C. 3201)) having its principal office located in the United States.

(f) *Depository institution* means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a depository institution.

(g) *Depository institution affiliate* means a depository institution that is an affiliate of a depository organization.

(h) *Depository organization* means a depository institution or a depository holding company.

(i) *FDIC-supervised institution* means either an insured state nonmember bank or a State savings association.

(j) *Low- and moderate-income areas* means census tracts (or, if an area is not in a census tract, block numbering areas delineated by the United States Bureau of the Census) where the median family income is less than 100 percent of the area median income.

(k) *Management official.* (1) The term *management official* means:

(i) A director;

(ii) An advisory or honorary director of a depository institution with total assets of $100 million or more;

(iii) A senior executive officer as that term is defined in 12 CFR 303.101(b).

(iv) A branch manager;

(v) A trustee of a depository organization under the control of trustees; and

(vi) Any person who has a representative or nominee serving in any of the capacities in this paragraph (j)(1).

(2) The term *management official* does not include:

(i) A person whose management functions relate exclusively to the business of retail merchandising or manufacturing;

(ii) A person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or

(iii) A person described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)) (referring to an officer of a State-chartered savings bank, cooperative bank, or trust company that neither makes real estate mortgage loans nor accepts savings).

(l) *Office* means a principal or branch office of a depository institution located in the United States. Office does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office.

(m) *Person* means a natural person, corporation, or other business entity.

(n) *Relevant metropolitan statistical area (RMSA)* means an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated Primary MSAs to the extent that these terms are defined and applied by the Office of Management and Budget.

(o) *Representative or nominee* means a natural person who serves as a management official and has an obligation to act on behalf of another person with respect to management responsibilities. The FDIC will find that a person has an obligation to act on behalf of another person only if the first person has an agreement, express or implied, to act on behalf of the second person with respect to management responsibilities. The FDIC will determine, after giving the affected persons an opportunity to respond, whether a person is a *representative or nominee.*

(p) *State savings association* has the same meaning as in section (3)(b)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)(3).

(q) *Total assets.* (1) The term *total assets* includes assets measured on a consolidated basis and reported in the most recent fiscal year-end Consolidated Report of Condition and Income.

(2) The term *total assets* does not include:

(i) Assets of a diversified savings and loan holding company as defined by section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F)) other than the assets of its depository institution affiliate;

(ii) Assets of a bank holding company that are exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)) other than the assets of its depository institution affiliate; or

(iii) Assets of offices of a foreign commercial bank other than the assets of its United States branch or agency.

(r) *United States* means the United States of America, any State or territory of the United States of America, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

§ 348.3 Prohibitions.

(a) Community. A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same community.

(b) RMSA. A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same RMSA and each depository organization has total assets of $50 million or more.

(c) Major assets. A management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. The FDIC will adjust these thresholds, as necessary, based on the year-to-year change in the average of the Consumer Price Index for the Urban Wage Earners and Clerical Workers, not seasonally adjusted, with rounding to the nearest $100 million. The FDIC will announce the revised thresholds by publishing a final rule without notice and comment in the **Federal Register**.

§ 348.4 Interlocking relationships permitted by statute.

The prohibitions of § 348.3 do not apply in the case of any one or more of the following organizations or to a subsidiary thereof:

(a) A depository organization that has been placed formally in liquidation, or which is in the hands of a receiver,

conservator, or other official exercising a similar function;

(b) A corporation operating under section 25 or section 25A of the Federal Reserve Act (12 U.S.C. 601 *et seq.* and 12 U.S.C. 611 *et seq.*, respectively) (Edge Corporations and Agreement Corporations);

(c) A credit union being served by a management official of another credit union;

(d) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(e) A State-chartered savings and loan guaranty corporation;

(f) A Federal Home Loan bank or any other bank organized solely to serve depository institutions (a bankers' bank) or solely for the purpose of providing securities clearing services and services related thereto for depository institutions and securities companies;

(g) A depository organization that is closed or is in danger of closing as determined by the appropriate Federal depository institutions regulatory agency and is acquired by another depository organization. This exemption lasts for five years, beginning on the date the depository organization is acquired;

(h) A savings association whose acquisition has been authorized on an emergency basis in accordance with section 13(k) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)) with resulting dual service by a management official that would otherwise be prohibited under the Interlocks Act which may continue for up to 10 years from the date of the acquisition provided that the FDIC has given its approval for the continuation of such service;

(i)(1) A diversified savings and loan holding company (as defined in section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F))) with respect to the service of a director of such company who is also a director of an unaffiliated depository organization if:

(i) Both the diversified savings and loan holding company and the unaffiliated depository organization notify their appropriate Federal depository institutions regulatory agency at least 60 days before the dual service is proposed to begin; and

(ii) The appropriate regulatory agency does not disapprove the dual service before the end of the 60–day period.

(2) The FDIC may disapprove a notice of proposed service if it finds that:

(i) The service cannot be structured or limited so as to preclude an anticompetitive effect in financial services in any part of the United States;

(ii) The service would lead to substantial conflicts of interest or unsafe or unsound practices; or

(iii) The notificant failed to furnish all the information required by the FDIC.

(3) The FDIC may require that any interlock permitted under this paragraph (h) be terminated if a change in circumstances occurs with respect to one of the interlocked depository organizations that would have provided a basis for disapproval of the interlock during the notice period; and

(j) Any FDIC-supervised institution which is a State savings association that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act, except that this paragraph (j) shall apply only with regard to service as a single management official of such State savings association or any subsidiary of such State savings association by a single management official of a savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the FDIC has determined that such service is consistent with the purposes of the Interlocks Act and the Home Owners' Loan Act.

§ 348.5 Small market share exemption.

(a) Exemption. A management interlock that is prohibited by § 348.3 is permissible, if:

(1) The interlock is not prohibited by § 348.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20 percent of the deposits in each RMSA or community in which both depository organizations (or their depository institution affiliates) have offices. The amount of deposits shall be determined by reference to the most recent annual Summary of Deposits published by the FDIC for the RMSA or community.

(b) Confirmation and records. Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

§ 348.6 General exemption.

(a) Exemption. The FDIC may by agency order exempt an interlock from the prohibitions in § 348.3 if the FDIC finds that the interlock would not result in a monopoly or substantial lessening of competition and would not present safety and soundness concerns.

(b) Presumptions. In reviewing an application for an exemption under this section, the FDIC will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the depository organization seeking to add a management official:

(1) Primarily serves low- and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group, or women;

(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in "troubled condition" as defined in § 303.101(c).

(c) Duration. Unless a shorter expiration period is provided in the FDIC approval, an exemption permitted by paragraph (a) of this section may continue so long as it does not result in a monopoly or substantial lessening of competition, or is unsafe or unsound. If the FDIC grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided by the FDIC in writing.

(d) Procedures. Procedures for applying for an exemption under this section are set forth in 12 CFR 303.249.

§ 348.7 Change in circumstances.

(a) Termination. A management official shall terminate his or her service or apply for an exemption if a change in circumstances causes the service to become prohibited. A change in circumstances may include an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

(b) Transition period. A management official described in paragraph (a) of this section may continue to serve the FDIC-supervised institution involved in the interlock for 15 months following the date of the change in circumstances. The FDIC may shorten this period under appropriate circumstances.

§ 348.8 Enforcement.

Except as provided in this section, the FDIC administers and enforces the Interlocks Act with respect to FDIC-supervised institutions and their affiliates and may refer any case of a prohibited interlocking relationship involving these entities to the Attorney

General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of an FDIC-supervised institution is subject to the primary regulation of another federal depository organization supervisory agency, then the FDIC does not administer and enforce the Interlocks Act with respect to that affiliate.

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

Subpart V —Management Official Interlocks

■ 2. The authority citation for part 390 is revised to read as follows:

Authority: 12 U.S.C. 1819.

Subpart A also issued under 12 U.S.C. 1820.

Subpart B also issued under 12 U.S.C. 1818.

Subpart C also issued under 5 U.S.C. 504; 554–557; 12 U.S.C. 1464; 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; 15 U.S.C. 78*l*; 78o–5; 78u–2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.

Subpart D also issued under 12 U.S.C. 1817; 1818; 1820; 15 U.S.C. 78*l*.

Subpart E also issued under 12 U.S.C. 1813; 1831m; 15 U.S.C. 78.

Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*

Subpart G also issued under 12 U.S.C. 2810 *et seq.*, 2901 *et seq.*; 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

Subpart I also issued under 12 U.S.C. 1831x.

Subpart J also issued under 12 U.S.C. 1831p–1.

Subpart K also issued under 12 U.S.C. 1817; 1818; 15 U.S.C. 78c; 78*l*.

Subpart L also issued under 12 U.S.C. 1831p–1.

Subpart M also issued under 12 U.S.C. 1818.

Subpart N also issued under 12 U.S.C. 1821.

Subpart O also issued under 12 U.S.C. 1828.

Subpart P also issued under 12 U.S.C. 1470; 1831e; 1831n; 1831p–1; 3339.

Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.

Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78*l*; 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.

Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l*; 78m; 78n; 78w.

Subpart U also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l*; 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.

Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l*; 78m; 78n; 78p; 78w.

Subpart X also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828; 3331 *et seq.*

Subpart Y also issued under 12 U.S.C. 1831o.

Subpart Z also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828 (note).

■ Remove from the authority citation for part 390, the sentence "Subpart V also issued under 12 U.S.C. 3201–3208."

■ 3. Subpart V—[Removed and reserved]

■ Remove and reserve Subpart V consisting of §§ 390.400 through 390.408.

Dated at Washington, DC, this 15th day of July 2014.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–16976 Filed 7–18–14; 8:45 a.m.]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 390

RIN 3064–AE19

Transferred OTS Regulations Regarding Electronic Operations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this notice of proposed rulemaking, the Federal Deposit Insurance Corporation ("FDIC") proposes to rescind and remove regarding electronic operations which were transferred to the FDIC from the Office of Thrift Supervision ("OTS") on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). There is no corresponding FDIC Electronic Operations rule and the rule is deemed obsolete and unnecessary. Therefore, the FDIC proposes to rescind and remove the regulations.

DATES: Comments must be received on or before September 19, 2014.

ADDRESSES: You may submit comments by any of the following methods:

- *FDIC Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow instructions for submitting comments on the agency Web site.
- *FDIC Email: Comments@fdic.gov.* Include RIN 3064–AE19 on the subject line of the message.
- *FDIC Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery to FDIC:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m.

Please include your name, affiliation, address, email address, and telephone number(s) in your comment. Where appropriate, comments should include a short Executive Summary consisting of no more than five single-spaced pages. All statements received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. You should submit only information that you wish to make publicly available.

Please note: All comments received will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal/*, including any personal information provided. Paper copies of public comments may be requested from the Public Information Center by telephone at 1–877–275–3342 or 1–703–562–2200.

FOR FURTHER INFORMATION CONTACT: Frederick Coleman, Division of Risk Management Supervision, (703) 254–0452; Martha L. Ellett, Legal Division, (202) 898–6765; Jennifer Maree, Legal Division, (202) 898–6543.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

Title III of the Dodd-Frank Act [1] provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act, codified at 12 U.S.C. 5411, the powers, duties, and functions formerly performed by the OTS were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency ("OCC"), as to Federal savings associations, and the Board of Governors of the Federal Reserve System ("FRB"), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(b), provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the transfer

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

date, they continue to be in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(c), further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations which would be enforced by the FDIC and the OCC, respectively. On June 14, 2011, the FDIC's Board of Directors approved a "List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act." This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[2]

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act, codified at 12 U.S.C. 5412(b)(2)(B)(i)(II), granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the Federal Deposit Insurance Act ("FDI Act") and other laws as the "appropriate Federal banking agency" or under similar statutory terminology. Section 312(c) of the Dodd-Frank Act amended the definition of "appropriate Federal banking agency" contained in section 3(q) of the FDI Act, 12 U.S.C. 1813(q), to add State savings associations to the list of entities for which the FDIC is designated as the "appropriate Federal banking agency." As a result, when the FDIC acts as the designated "appropriate Federal banking agency" (or under similar terminology) for State savings associations, as it does here, the FDIC is authorized to issue, modify and rescind regulations involving such associations, as well as for State nonmember banks and insured branches of foreign banks.

As noted, on June 14, 2011, operating pursuant to this authority, the FDIC's Board of Directors reissued and redesignated certain transferring OTS regulations. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[3] When it republished the transferred OTS regulations as new FDIC regulations, the FDIC specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC rules, amending them, or rescinding them, as appropriate.

One of the OTS rules transferred to the FDIC requires State savings associations to notify the FDIC at least 30 days before establishing a transactional Web site. The OTS rule, formerly found at 12 CFR part 555, subpart B ("part 555, subpart B"), was transferred to the FDIC with only technical changes and is now found in the FDIC's rules at part 390, subpart L, entitled "Electronic Operations." The FDIC has no such corresponding rule. After careful review of part 390, subpart L, the FDIC proposes to rescind part 390, subpart L, because, as discussed below, it is obsolete, unnecessary, and burdensome.

Former OTS Part 555, Subpart B (Transferred to FDIC Part 390, Subpart L)

On January 1, 1999, part 555, subpart B became effective and was among the regulations that were transferred to the FDIC from the OTS on July 21, 2011, pursuant to the Dodd-Frank Act. This rule required savings associations to file a written notice with the OTS at least 30 days before establishing a transactional Web site. The OTS enacted the Electronic Operations rule unilaterally. Neither the FDIC, nor the Office of the Comptroller of the Currency ("OCC"),[4] nor the Board of Governors of the Federal Reserve System ("FRB") has a regulatory notice requirement similar to the Electronic Operations rule that requires insured depository institutions ("IDIs") to notify the FDIC if they intend to establish transactional Web sites.

In issuing its Electronic Operations rule, the OTS sought to "monitor adequately savings associations' technological innovations and to assess security, compliance, and privacy risks."[5] The OTS reasoned that the notice requirement would aid the agency in assisting savings associations "that are contemplating or already conducting Internet operations to identify and address the risks that accompany such activities" and would "help institutions avoid problems and protect consumers."[6] At the time, the OTS concluded that a requirement that each savings association must provide advance notice to the OTS of the association's intent to establish a transactional Web site would assist the OTS in evaluating safety and soundness, compliance, and other risks.

Significantly, the OTS noted that "[a]s technologies mature and the industry and OTS gain additional experience, the OTS may revise the rule to no longer require notice before establishing a transactional Web site."[7] In a 2001 review of its regulations regarding electronic delivery of financial products and services, the OTS suggested that a goal of the Electronic Operations rule was to impose a notice requirement in lieu of specific operational standards as the least burdensome way to regulate savings associations. The OTS also stated that it "designed its regulations to help ensure that it would have sufficient information to understand developing technologies, to provide appropriate guidance on these technologies, and to supervise electronic operations effectively."[8]

After careful consideration of the former OTS's general prior notice requirement, the FDIC has reached the same conclusion it has in the past, particularly in light of continuing advancements in electronic banking and related technology. Specifically, the FDIC concludes there is no supervisory value in a requirement that an IDI give prior notification to the FDIC about its establishment of a transactional Web site. Given the rapid evolution, innovation and current state of technological products and interfaces with customers, the FDIC relies on dynamic, in-depth supervisory means to evaluate an IDI's information technology ("IT") systems. Instead of a general notice requirement for the establishment of a transactional Web site, the FDIC has developed and relies upon more useful and ongoing sources of information to evaluate the financial condition, risks and regulatory compliance by FDIC-supervised institutions. Prior notification that an institution is establishing a transactional Web site is an outdated and unnecessary requirement.

Currently, the FDIC receives information about an IDI's IT systems, including its transactional Web sites, from various examinations and other sources of information that render a general prior notice requirement such as the former OTS rule for savings

[2] 76 FR 39247 (July 6, 2011).

[3] 76 FR 47652 (Aug. 5, 2011).

[4] The OCC has an Electronic Activities rule that "identifies the criteria that the OCC uses to determine whether an electronic activity is authorized as part of, or incidental to, the business of banking under 12 U.S.C. 24 (Seventh) or other statutory authority." 12 CFR 7.5000. However, this rule does not contain a prior notice requirement before establishing a transactional Web site.

[5] 63 FR 65673, 65678 (Nov. 30, 1998).

[6] 63 FR 43327, 43328 (Aug. 13, 1998). The OTS articulated concerns about "protecting the privacy of individuals" and "other operational and compliance risks presented by Internet banking" and noted its intent to "increase its monitoring of Web sites for compliance with disclosure laws and regulations." *Id.*

[7] 63 FR 43327, 43329 (Aug. 13, 1998).

[8] 66 FR 31186, 31187 (June 11, 2001).

associations, outdated and unnecessary for the FDIC's supervisory purposes of risk management and compliance. For example, the FDIC's IT pre-examination questionnaire to IDIs requires information about the IDI's technological developments, including whether there were any changes in technology that were implemented since the previous FDIC examination.

Changes in technology include, for example, any "new service provider relationships, new software applications and/or service offerings." [9] The IT pre-examination questionnaire also asks whether the IDI plans to "deploy new technology within the next 12 months," which would include the implementation of a transactional Web site. If the answer is "yes," the questionnaire asks whether the risks associated with the new technology were reviewed by the IDI during the institution's most recent risk assessment.[10] The FDIC then reviews the IDI's risk assessment at each examination. The questionnaire also asks whether the IDI has "identified and reported its service provider relationships (both domestic and foreign-based) to the FDIC," [11] which would include those with Technology Service Providers ("TSPs"). This information is also required to be reported by the IDI to the FDIC pursuant to the Bank Service Company Act ("BSCA").[12]

As part of its examination process, the FDIC also monitors technology developments and TSPs. In periodic on-site IT examinations, FDIC examiners obtain information regarding the establishment of transactional Web sites and any other technological developments the institution has implemented. Through the Federal Financial Institutions Examination Council ("FFIEC"), the FDIC, jointly with other Federal banking agencies, also participates in examinations of all of the major TSPs. In these examinations, the FDIC obtains customer lists of all financial institutions that have contracted for services from the particular service provider, including TSPs. These lists are more up to date than a point-in-time notice that the Electronic Operations rule offers and they also provide the FDIC with notice of any changes in TSPs.

During the FDIC's compliance examinations, IDIs are also routinely examined for compliance with applicable consumer protection laws and regulations, such as the Truth in Lending Act, Regulation Z; the Electronic Funds Transfer Act, Regulation E; the Equal Credit Opportunity Act, Regulation B; the Truth in Savings Act, Regulation DD; and Section 5 of the Federal Trade Commission Act that prohibits unfair or deceptive acts or practices. These examinations address any problems IDIs may have with the adequacy of consumer disclosures, among other things.

In addition, the BSCA requires IDIs to provide written notice to the FDIC (or other appropriate Federal banking agency) of the existence of third-party service relationships "within thirty days after the making of such service contract or the performance of the service, whichever occurs first." [13] The BSCA covers services performed by third parties, including TSPs and the FDIC has long interpreted the BSCA to include within its scope Internet banking service providers.[14]

Specific and ongoing information obtained and evaluated by the FDIC through the IT pre-examination questionnaire, on-site IT examinations, TSP examinations and compliance examinations as well as the BSCA notice better enables the FDIC to evaluate existing or potential safety and soundness and compliance concerns. The FDIC's IT examination process renders a general, point-in-time notice such as that required by the OTS's Electronic Operations rule, to be unnecessary. The rule is inefficient and unnecessarily burdensome, and it should be eliminated.

In its supplemental notice of proposed rulemaking, the OTS expressed concerns regarding the safety of Internet banking and protecting customers' privacy in support of its rule.[15] However, these supervisory concerns have been addressed elsewhere, rendering the Electronic Operations rule superfluous. For example, in 2005 and most recently updated in 2011, the FDIC, with the other FFIEC agencies, issued guidance that describes supervisory expectations regarding customer authentication for high-risk transactions, layered security programs, and other controls related to Internet banking.[16] The guidance includes regulatory expectations about enhanced authentication methods banks must use when authenticating the identity of customers using on-line products and services, the need for layered security, and minimum control expectations for certain online banking activities.

In addition, 12 CFR part 364, appendix B ("part 364, appendix B") to the FDIC regulations, which implements the Graham-Leach-Bliley Act, addresses the bank's requirements for safeguarding customer information, which includes transactional Web sites.[17] An institution's compliance with part 364, appendix B is assessed at every FDIC IT examination and specifically addressed in each Report of Examination.

After careful review of the OTS's transferred rule in part 390, subpart L, and the former OTS's stated rationale for the rule, the FDIC, as the appropriate Federal banking agency for State savings associations, proposes to rescind and remove the former OTS rule in its entirety. Rescinding part 390, subpart L also will serve to streamline the FDIC's rules and eliminate obsolete and superfluous regulations. If the proposal is adopted in final form, all IDIs regulated by the FDIC—including State savings associations—will be regulated in a uniform manner.

II. The Proposal

Regarding the functions of the former OTS that were transferred to the FDIC, section 316(b)(3) of the Dodd-Frank Act, 12 U.S.C. 5414(b)(3), in pertinent part, provides that the former OTS regulations will be enforceable by the FDIC until they are modified, terminated, set aside, or superseded in accordance with applicable law. After reviewing the Electronic Operations rule currently found in part 390, subpart L, the FDIC, as the appropriate Federal banking agency for State savings associations, proposes to rescind part 390, subpart L in its entirety. Rescinding part 390, subpart L will serve to streamline the FDIC's rules and eliminate obsolete and unnecessary regulations. It will also facilitate uniform supervision regarding notification requirements for electronic operation for all FDIC-supervised IDIs.

[9] Information Technology Officer's Questionnaire, Part 1(h) (Dec. 2007).

[10] Information Technology Officer's Questionnaire, Part 1(k) (Dec. 2007).

[11] Information Technology Officer's Questionnaire, Part 5(b) (Dec. 2007).

[12] 12 U.S.C. 1861 *et seq.*

[13] 12 U.S.C. 1867(c)(2). Although the BSCA notice does not require a prior notification like the Electronic Operations notice requirement, it is supplemented by other, ongoing and detailed sources of supervisory information.

[14] *See Bank Service Company Act,* FDIC, FIL–49–99 (June 3, 1999).

[15] 63 FR 43327 (Aug. 13, 1998).

[16] The guidance was first issued in 2005, *see Authentication in an Internet Banking Environment,* FDIC, FIL–103–2005 (Oct. 12, 2005), and was updated in 2011, *see FFIEC Supplement to Authentication in an Internet Banking Environment,* FDIC, FIL–50–2011 (June 29, 2011).

[17] *Interagency Guidelines Establishing Information Security Standards,* 12 CFR Part 364, Appendix B.

III. Request for Comments

The FDIC invites comments on all aspects of this proposed rulemaking, and specifically requests comments on the following:

(1) What impacts, positive or negative, can you foresee in the FDIC's proposal to rescind part 390, subpart L?

Written comments must be received by the FDIC no later than September 19, 2014.

IV. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act ("PRA") of 1995, 44 U.S.C. 3501–3521, 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.

The Proposed Rule would rescind and remove from FDIC regulations part 390, subpart L because it is obsolete and unnecessary. In republishing this rule, the FDIC made only technical changes to existing OTS regulations, such as nomenclature changes. The FDIC does not have a regulatory notice requirement similar to the Electronic Operations rule that requires IDIs to notify the FDIC if they intend to set up transactional Web sites and, therefore, never established an information collection to account for the paperwork burden imposed on the public.

This Proposed Rule will neither create any paperwork information collection nor modify any of the FDIC's existing paperwork information collections. Accordingly, the FDIC need not submit any Information Collection Request to OMB.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"),[18] requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $500 million).[19] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule. For the reasons provided below, the FDIC certifies that the Proposed Rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The Proposed Rule does not impose any additional burdens or requirements on small entities. Rather, because the Electronic Operations rule is being rescinded, the Proposed Rule reduces the paperwork and other regulatory burdens on State savings associations by eliminating the requirement to provide the FDIC with notice before establishing a transactional Web site.

As discussed in this notice of proposed rulemaking, part 390, subpart L was transferred from part 555, subpart B, which governed notification provisions for savings associations that intended to establish transactional Web sites. Part 555, subpart B became effective on January 1, 1999, and all savings associations were required to comply with it. Because it is obsolete and unnecessary, the FDIC proposes rescinding and removing part 390, subpart L. Therefore, today's Proposed Rule would have no significant economic impact on any State savings association.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, codified at 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. The FDIC invites comments on whether the Proposed Rule is clearly stated and effectively organized, and how the FDIC might make it easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could it present the rule more clearly?
- Have we clearly stated the requirements of the rule? If not, how could the rule be more clearly stated?
- Does the rule contain technical jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

D. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA"), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured institutions.[20] The FDIC completed the last comprehensive review of its regulations under EGRPRA in 2006 and is commencing the next decennial review. The action taken on this rule will be included as part of the EGRPRA review that is currently in progress.

List of Subjects in 12 CFR Part 390

Banks and banking, Electronic operations, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the FDIC proposes to amend 12 CFR part 390 as follows:

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 1. The authority citation for part 390 is revised to read as follows:

Authority: 12 U.S.C. 1819.

Subpart A also issued under 12 U.S.C. 1820.

Subpart B also issued under 12 U.S.C. 1818.

Subpart C also issued under 5 U.S.C. 504; 554–557; 12 U.S.C. 1464; 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; 15 U.S.C. 78*l*; 78o–5; 78u–2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.

Subpart D also issued under 12 U.S.C. 1817; 1818; 1820; 15 U.S.C. 78*l*.

Subpart E also issued under 12 U.S.C. 1813; 1831m; 15 U.S.C. 78.

Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*

Subpart G also issued under 12 U.S.C. 2810 *et seq.*, 2901 *et seq.*; 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

Subpart H also issued under 12 U.S.C. 1464; 1831y.

Subpart I also issued under 12 U.S.C. 1831x.

Subpart J also issued under 12 U.S.C. 1831p–1.

Subpart M also issued under 12 U.S.C. 1818.

Subpart N also issued under 12 U.S.C. 1821.

Subpart O also issued under 12 U.S.C. 1828.

Subpart P also issued under 12 U.S.C. 1470; 1831e; 1831n; 1831p–1; 3339.

Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.

Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78*l*; 78m; 78n;

[18] 5 U.S.C. 601 *et seq.*

[19] 78 FR 37409, 37411 (June 20, 2013).

[20] Public Law 104–208, 110 Stat. 3009 (1996).

78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.

Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l*; 78m; 78n; 78w.

Subpart U also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l*; 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.

Subpart V also issued under 12 U.S.C. 3201–3208.

Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l*; 78m; 78n; 78p; 78w.

Subpart X also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828; 3331 *et seq.*

Subpart Y also issued under 12 U.S.C.1831o.

Subpart Z also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828 (note).

Subpart L—[Removed and Reserved]

■ 2. Remove and reserve subpart L, consisting of §§ 390.220 through 390.222.

Dated at Washington, DC, this 15th day of July, 2014.

By order of the Board of Directors, Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–16975 Filed 7–18–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 390

RIN 3064–AE17

Transferred OTS Regulations Regarding Possession by Conservators and Receivers for Federal and State Savings Associations.

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) proposes to rescind and remove regulations regarding possession by conservators and receivers for federal and state savings associations, which are no longer necessary in light of or contradict provisions of the Federal Deposit Insurance Act and are not in accordance with FDIC practice and procedures. The regulations were included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision (OTS) on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Rescinding these regulations will eliminate confusion that may arise from duplicative or inconsistent rules and procedures and will eliminate unnecessary regulations.

DATES: Comments must be received on or before September 19, 2014.

ADDRESSES: You may submit comments by any of the following methods:

- *FDIC Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow instructions for submitting comments on the agency Web site.
- *FDIC Email: Comments@fdic.gov.* Include RIN 3064–AE17 in the subject line of the message.
- *FDIC Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery to FDIC:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Please note: All comments received will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal/,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: R. Penfield Starke, Assistant General Counsel, Legal Division (703) 562–2422 or *rstarke@fdic.gov;* Thomas Bolt, Senior Counsel, Legal Division (703) 562–2046 or *tbolt@fdic.gov;* or Manuel E. Cabeza, Counsel, Legal Division (703) 562–2434 or *mcabeza@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") [1], signed into law on July 21, 2010, provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act,[2] the powers, duties, and functions formerly performed by the OTS were divided among the FDIC as to State savings associations, the Office of Comptroller of the Currency (OCC) as to Federal savings associations, and the Board of Governors of the Federal Reserve System (FRB) as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act [3] provides the manner of treatment for all orders, resolutions, determinations, regulations, and other advisory materials, that were issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such advisory materials were in effect on the day before the transfer date, they continue in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act [4] further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations that would be enforced by the FDIC and the OCC respectively. On June 14, 2011 the FDIC's Board of Directors approved a "List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act." This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[5]

FDIC's Authority To Regulate

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act [6] granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the Federal Deposit Insurance Act (the "FDI Act") [7] and other laws as the "appropriate Federal banking agency" or under similar statutory terminology. Section 312(c) of the Dodd-Frank Act amended section 3(q) of the FDI Act [8] and designated the FDIC as the "appropriate Federal banking agency" for State savings associations. As a result, when the FDIC acts as the designated "appropriate Federal banking agency" (or under similar terminology) for State savings associations, as it does here, the FDIC is authorized to issue, modify and rescind regulations involving such associations.

As noted, on June 14, 2011 the FDIC's Board of Directors reissued and redesignated certain transferring regulations of the former OTS. These transferred OTS regulations were published as FDIC interim rules in the **Federal Register** on August 5, 2011.[9] When it republished the transferred OTS regulations as new FDIC

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 12 U.S.C. 5301 *et seq.* (2010).

[2] 12 U.S.C. 5411.

[3] 12 U.S.C. 5414(b).

[4] 12 U.S.C. 5414(c).

[5] 76 FR 39247 (July 6, 2011).

[6] 12 U.S.C. 5412(b)(2)(B)(i)(II).

[7] 12 U.S.C. 1811 *et seq.*

[8] 12 U.S.C. 1813(q).

[9] 76 FR 47652 (August 5, 2011).

regulations, the FDIC specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC rules, amending them, or rescinding them, as appropriate.

One of the regulations transferred to the FDIC governed the procedures to be followed by conservators and receivers for Federal and State savings associations upon taking possession of said entities and for the giving notice of their appointment. This OTS regulation, formerly found at 12 CFR part 558, was transferred to the FDIC with only nominal changes and is now found in the FDIC's regulations at 12 CFR part 390, subpart N. Unlike the OTS, which was established in 1989 as an office within the Department of the Treasury,[10] the FDIC's role and responsibilities when serving as conservator or receiver are defined by specific statutory provisions contained in the FDI Act. The FDIC is a federal corporation established by the FDI Act,[11] and has been entrusted with virtually complete responsibility for resolving failed insured depository institutions. The FDI Act confers expansive powers on the FDIC and its Board of Directors to ensure the efficiency of the process. The FDIC's Board of Directors is empowered to prescribe bylaws regulating the manner in which the FDIC's general business may be conducted and to exercise, directly or through duly authorized officers and agents, all powers specifically granted by the statute and such incidental powers as are necessary to carry out the powers so granted.[12] Pursuant to this authority, the FDIC's Board of Directors has appointed various officers and has issued resolutions delegating corporate authority to these officers. Pursuant to this delegated corporate authority, FDIC officers have established detailed procedures governing the closing of failed institutions when the FDIC is appointed conservator or receiver. If the proposed rule is adopted, the procedures followed by the FDIC upon appointment as conservator or receiver, implemented through delegated corporate powers, including those for providing notice of such appointment, will continue to be those followed by FDIC prior to the transfer of responsibilities from the former OTS.

[10] The Office of Thrift Supervision was established by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), Public Law 101–73, 103 Stat. 183 (1989) (codified at various sections of 12 and 15 U.S.C.).

[11] 12 U.S.C. 1811(a).

[12] 12 U.S.C. 1819(a) "Sixth" and "Seventh." With respect to instances where the FDIC, pursuant to the discretion it has been granted under the FDI Act,[13] elects to decline tendered appointment as conservator or receiver by an authority having supervision of an insured State depository institution, applicable State law will continue to govern matters pertinent to such conservatorships or receiverships.

II. The Proposal

After careful review of 12 CFR part 390, subpart N—Possession by Conservators and Receivers for Federal and State Savings Associations, the FDIC proposes to rescind 12 CFR part 390, subpart N, because the regulations contained in this subpart are unnecessary in light of, or contrary to provisions of the FDI Act and are duplicative of, or not in accordance with FDIC practice and procedures. Regarding the functions of the former OTS that were transferred to the FDIC, section 316(b)(3) of the Dodd-Frank Act,[14] in pertinent part, provides that the former OTS's regulations will be enforceable by the FDIC until they are modified, terminated, set aside, or superseded in accordance with applicable law. After reviewing the rules regarding possession by conservators and receivers for Federal and State savings associations and notice procedures following such appointments, currently found in 12 CFR part 390, subpart N, the FDIC, as the appropriate Federal banking agency for State savings associations proposes to rescind these regulations in their entirety. The FDIC believes that the provisions of the FDI Act are sufficient to establish the authority of the FDIC, once it has been appointed conservator or receiver of an insured depository institution, to give adequate notice of its appointment and to take possession of and exercise control over the assets of a failed institution, including insured State savings associations. The rules found at 12 CFR part 390, subpart N[15] are in some respects duplicative and in others inconsistent with the provisions of the FDI Act and current FDIC procedures established pursuant to the exercise of corporate powers granted FDIC under the FDI Act.

12 CFR § 390.240—Procedure Upon Taking Possession

The FDIC interim rule found at 12 CFR 390.240 contains a transferred OTS regulation outlining procedures to be followed by conservators and receivers for Federal and State savings associations for taking possession of said entities upon appointment that is inconsistent with provisions of the FDI Act in two respects. First, the FDIC interim rule's references to "Executive Secretary"[16] and "FDIC"[17] suggest that only the FDIC will serve as conservator or receiver of an insured State depository institution, whereas a State authority could appoint a different entity as conservator or receiver, and the FDI Act provides that the acceptance of such tendered appointment is at the discretion of the FDIC rather than mandatory.[18] In addition, the interim rule provides that the FDIC, upon being appointed conservator or receiver of a State or Federal savings association, is to take possession of the failed institution *"in accordance with the terms of the OCC's or State bank supervisor's, as appropriate, appointment"*[19] and elsewhere requires the FDIC to post a notice at all locations where the failed institution operated, as *"prescribed by the OCC or State bank supervisor, as appropriate."*[20] These two provisions diverge from the FDI Act, which provides that, when acting as conservator or receiver, the FDIC *"shall not be subject to the direction or supervision of any other agency or department of the United States or any State in the exercise of the Corporation's rights, powers, and privileges."*[21]

This transferred OTS regulation is inconsistent with FDIC practice and procedures in two respects. Section 390.240(a) requires the FDIC, when appointed as receiver or conservator to take *"possession of the principal office"* of the failed institution, whereas, in practice, the FDIC, upon appointment as conservator or receiver, takes coordinated simultaneous possession of all locations from which a failed institution operates, even in cases where multiple time zones are involved. In addition, § 390.240(b)(3) requires the filing of a statement with the Executive Secretary indicating that the conservator or receiver took possession of the failed

[13] 12 U.S.C. 1821(c)(3)(A).

[14] 12 U.S.C. 5414(c).

[15] 12 CFR Part 390, Subpart N contains two regulations: section 390.240, entitled "Procedure upon taking possession" and section 390.241 entitled "Notice of appointment."

[16] 12 CFR 390.240(b)(3).

[17] 12 CFR 390.241.

[18] 12 U.S.C. 1821(c)(3)(A) provides that "[w]henever the authority having supervision of any insured State depository institution appoints a conservator or receiver for such institution and tenders appointment to the Corporation, the Corporation may accept such appointment." [Emphasis added].

[19] 12 CFR 390.240(a).

[20] § 390.240(b)(4).

[21] 12 U.S.C. 1821(c)(2)(C) [with respect to Federal depository institutions] and 12 U.S.C. 1821(c)(3)(C) [with respect to insured State depository institutions).

institution. This provision is also inconsistent with FDIC practice. The FDIC Board of Directors is aware of all impending potential appointments of the Corporation as conservator or receiver of a failing insured depository institution and, at the appropriate time, adopts resolutions specific to the failing institution delegating to corporate officers the necessary authority to accept the appointment and carry out the required procedures to take possession of a failed institution. Accordingly, it is not necessary for corporate officers to whom authority has been thus delegated, to file any statement or otherwise give specific notice to the Executive Secretary or the Board of Directors about taking actions the Board of Directors specifically directed them to take. The electronic notifications, press releases and Web site postings handled by the FDIC's Office of Communications upon the closing of a failed institution serve to keep all interested parties, public and internal, adequately informed.

Finally, this transferred OTS regulation is duplicative of self-executing provisions of the FDI Act. Section 390.240(b) contains provisions that prescribe actions that the FDIC must take after taking possession of a savings association. These include: (1) Taking possession of the failed institutions books, records and assets; [22] (2) providing written notice to certain parties, "personally or by registered mail or telegraph," that the FDIC "has succeeded to rights, powers and privileges of the [failed institution];" [23] and (3) a statement of the fact that FDIC as conservator or receiver succeeds to the rights, titles, powers and privileges of the failed institution and its assets.[24] These provisions are redundant and unnecessary.[25] Pursuant to the FDI Act, FDIC, as conservator or receiver, by operation of law, succeeds to "all rights, titles, powers and privileges of the [failed] institution . . . and the assets of the [failed] institution." [26] The FDI Act also empowers the FDIC, as conservator or receiver, "to take over the assets and operate the insured depository institution with all the powers of the members or shareholders, the directors and the officers of the institution and conduct all business of the institution." [27] These provisions of the FDI Act are self-executing and do not require a regulation to restate, add or subtract from their broad clear and unambiguous language.

12 CFR 390.241—Notice of Appointment

The FDIC interim rule found at 12 CFR 390.241 contains a transferred OTS regulation outlining procedures for giving notice of the appointment of a conservator or receiver for a Federal or State savings association that is contrary to provisions of the FDI Act or is inconsistent with FDIC practice and procedures in several respects. First, § 390.241(a) requires the FDIC, when the OCC or a State bank supervisor appoints it as conservator or receiver, to designate the person or entities that will give or post certain notices and certified copies of documents prior to taking possession of the failed institution. The FDIC's Board of Directors, pursuant to authority in the FDI Act has delegated authority to certain corporate positions, among them those of Closing Manager and Receiver-in-Charge. The officers appointed to fill these positions have the necessary authority to take the actions contemplated in § 390.241(a). This authority is delegated from the FDIC's Board of Directors by means of resolutions that are a matter of public record and are readily available.

Second, § 390.241(a)(1) through (3) preconditions the conservator's or receiver's taking possession of a failed savings association on certain notice requirements providing that *"before the conservator or receiver takes possession of the savings association"* the FDIC must give notice *"to any officer or employee who is present in and appears to be in charge at the principal office of the savings association;"* [28] must serve a copy of the order for the appointment by *"leaving a certified copy of the order of appointment at the principal office of the savings association,"* [29] or by *"handing a certified copy of the order of appointment to the previous conservator . . . or the officer or employee of the savings association . . . who is present in and appears to be in charge at the principal office of the savings association;"* [30] and must file *"with the Executive Secretary of the FDIC a statement that includes the date and time that notice of the appointment was given and service of the order of appointment was made."* [31] Pursuant to the FDI Act, when appointed conservator or receiver, the FDIC, by operation of law, succeeds to the assets and all rights, titles, powers and privileges of a failed institution. The FDI Act also empowers the FDIC, as conservator or receiver, to take over the assets and operate the failed insured depository institution.[32] As stated above, these provisions of the FDI Act are self-executing and the taking of possession of a failed savings association by the FDIC following its appointment as conservator or receiver is not conditioned on the giving of notice of appointment or the serving of an order of appointment. In addition, the notices listed in § 390.241(a)(1) through (3) are given instantaneously and simultaneously through electronic means by the FDIC upon acceptance of the appointment. The requirements in this rule are cumbersome, redundant and inconsistent with the FDI Act.

Rescinding the rules found at 12 CFR part 390, subpart N will serve to streamline the FDIC's rules, prevent confusion and eliminate unnecessary regulations.

III. Request for Comments

The FDIC invites comments on all aspects of the proposed rulemaking. Written comments must be received by the FDIC no later than September 19, 2014.

IV. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

Removing part 390, subpart N will not revise any existing information collections pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, FDIC has not submitted any information collection revisions to the Office of Management and Budget for review.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, (RFA), requires that each Federal agency either (1) certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities or (2) prepare an initial regulatory flexibility analysis of the rule and publish the analysis for comment. Rescinding 12 CFR part 390, subpart N will leave the FDI Act as the sole source of the FDIC's authority to act as conservator or receiver for an insured depository institution and does not impose any obligations or restrictions on banking organizations, including small banking organizations. On this basis, the FDIC certifies that this proposal, if it is adopted in final form, would not have a significant impact on a substantial number of small entities,

[22] § 390.240(b)(1).

[23] § 390.240(b)(2).

[24] § 390.240(b)(5).

[25] FDIC provides notice to interested parties through press releases and its Web site.

[26] 12 U.S.C. 1821(d)(2(A).

[27] 12 U.S.C. 1821(d)(2(B).

[28] 12 CFR 390.241(a)(1).

[29] 12 CFR 390.241(a)(2)(i).

[30] 12 CFR 390.241(a)(2)(ii).

[31] 12 CFR 390.241(a)(3).

[32] *See* Footnotes 19 and 20 and related text.

within the meaning of those terms as used in the RFA.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. As a Federal banking agency subject to the provisions of this section, the FDIC has sought to present the proposed rule to rescind Part 390, Subpart N in a simple and straightforward manner. The FDIC invites comments on whether the proposal is clearly stated and effectively organized, and how the FDIC might make the proposal easier to understand.

D. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA"), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured institutions. The FDIC completed the last comprehensive review of its regulations under EGRPRA in 2006 and is commencing the next decennial review. The action taken on this rule will be included as part of the EGRPRA review that is currently under way. As part of that review, the FDIC invites comments concerning whether the Proposed Rule would impose any outdated or unnecessary regulatory requirements on insured depository institutions. If you provide such comments, please be specific and provide alternatives whenever appropriate.

List of Subjects in 12 CFR Part 390

Banks and banking, Savings associations.

Authority and Issuance

For the reasons stated in the preamble and under the authority of 12 U.S.C. 5412, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 390 as follows:

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 1. The authority citation for part 390 is revised to read as follows:

Authority: *12 U.S.C. 1819.*

Subpart A also issued under *12 U.S.C. 1820.*

Subpart B also issued under *12 U.S.C. 1818.*

Subpart C also issued under *5 U.S.C. 504;* 554–557; *12 U.S.C. 1464;* 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; *15 U.S.C. 78 l;* 78o–5; 78u–2; *28 U.S.C. 2461* note; *31 U.S.C. 5321; 42 U.S.C. 4012a.*

Subpart D also issued under *12 U.S.C. 1817;* 1818; 1820; *15 U.S.C. 78 l.*

Subpart E also issued under *12 U.S.C. 1813;* 1831m; *15 U.S.C. 78.*

Subpart F also issued under *5 U.S.C. 552;* 559; *12 U.S.C. 2901 et seq.*

Subpart G also issued under *12 U.S.C. 2810 et seq.,* 2901 *et seq.; 15 U.S.C. 1691; 42 U.S.C. 1981,* 1982, 3601–3619.

Subpart H also issued under *12 U.S.C. 1464;* 1831y.

Subpart I also issued under *12 U.S.C. 1831x.*

Subpart J also issued under *12 U.S.C. 1831p–1.*

Subpart L also issued under *12 U.S.C. 1831p–1.*

Subpart M also issued under *12 U.S.C. 1818.*

Subpart O also issued under *12 U.S.C. 1828.*

Subpart P also issued under *12 U.S.C. 1470;* 1831e; 1831n; 1831p–1; 3339.

Subpart Q also issued under *12 U.S.C. 1462;* 1462a; 1463; 1464.

Subpart R also issued under *12 U.S.C. 1463;* 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under *12 U.S.C. 1462;* 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; *15 U.S.C. 78b; 78l;* 78m; 78n; 78p; 78q; 78w; *31 U.S.C. 5318; 42 U.S.C. 4106.*

Subpart T also issued under *12 U.S.C. 1462a;* 1463; 1464; 15 U.S.C. 78c; 78*l;* 78m; 78n; 78w.

Subpart U also issued under *12 U.S.C. 1462a;* 1463; 1464; *15 U.S.C. 78c;* 78*l;* 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.

Subpart V also issued under *12 U.S.C. 3201–*3208.

Subpart W also issued under *12 U.S.C. 1462a;* 1463; 1464; *15 U.S.C. 78c;* 78*l;* 78m; 78n; 78p; 78w.

Subpart X also issued under *12 U.S.C. 1462;* 1462a; 1463; 1464; 1828; 3331 *et seq.*

Subpart Y also issued under 12 U.S.C. 1831o.

Subpart Z also issued under *12 U.S.C. 1462;* 1462a; 1463; 1464; 1828 (note).

Subpart N—[Removed and Reserved]

■ 2. Remove and reserve subpart N, consisting of §§ 390.240 through 390.241.

Dated at Washington, DC, this 15th day of July 2014.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–16977 Filed 7–18–14; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Chapter VI

RIN 3052–AC88

Statement on Regulatory Burden

AGENCY: Farm Credit Administration.

ACTION: Final Notice of Intent.

SUMMARY: This document is part of the Farm Credit Administration's (FCA, Agency, we or our) 2013 initiative to reduce regulatory burden for Farm Credit System (FCS or System) institutions. Several System institutions responded to our July 2013 request for comments by identifying regulations that they considered burdensome, ineffective, or duplicative, and this document responds to those comments.

DATES: July 21, 2014.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

FOR FURTHER INFORMATION CONTACT:

Lori R. Markowitz, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4487, TTY (703) 883–4056; or

Mary Alice Donner, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Background

On July 18, 2013, we published a document in the **Federal Register** inviting the public to comment on our regulations that duplicate other requirements, are not effective in achieving stated objectives, are not based on law, or impose burdens that are greater than the benefits received.[1] We received letters from Farm Credit East, ACA (Farm Credit East), Farm Credit Services of America, ACA (FCSA), Lone Star AgCredit, ACA (Lone Star), AgSouth Farm Credit, ACA (AgSouth), and the Farm Credit Council (Council) containing 16 comments. The letters commented on regulations concerning: Standards of conduct; eligibility and scope of financing; participations and syndications; liquidity reserve; issuance of equities; borrower rights; production of documents; financing for farm-related services; advisory votes on senior officer compensation; FCA guidance; and technical corrections needed.

The purpose of this document is to discuss the comments raised about FCA

[1] *See* 78 FR 42893.

regulations and FCA activities. A number of the issues raised by commenters concern changes that cannot be implemented because they are inconsistent with the Farm Credit Act of 1971, as amended (Act), safety and soundness, and/or other guidance. Some comments raise issues that are the subject of other regulatory projects scheduled for consideration by the FCA as set forth in the FCA's 2014 Regulatory Project Plan, which is available on the FCA's Web site, and those issues will be addressed in the planned regulatory projects. In other cases, commenters identified issues that need significant further evaluation before we can consider whether changes are appropriate. Although we are not recommending changes to these regulations at this time, we may propose changes in the future.

II. Regulations That We Are Not Proposing To Change at This Time

A. Standards of Conduct

Comment: The Council stated that the requirements in §§ 612.2140 and 612.2150 regarding director- and employee-prohibited conduct prohibit System employees and directors from acquiring property owned by the bank or any affiliated association that was acquired as a result of a foreclosure or similar action except by inheritance or through public auction or open competitive bidding available to the general public. The Council stated that the Standards of Conduct regulations could reference collateral acquired by a System institution directly or through use of an acquired property unincorporated business entity.

FCA Response: On February 20, 2014, the FCA published a proposed rule that would amend our Standards of Conduct regulations. *See* 79 FR 9649. This comment is being considered by the FCA as part of that rulemaking project.

B. Eligibility and Scope of Financing

Comment: The Council and Farm Credit East both felt that there is a need to revisit the processing and marketing authorities found in § 613.3010, which deal with financing for processing or marketing operations. They both stated that there is considerable overlap between certain farm-related business services with some processing and marketing operations. They both feel that the idea that a marketing and processing business provides value to local agriculture only when there is some throughput is out of step with the realities of today's local food systems and inhibits the System's ability to serve the growing local food industry.

FCA Response: The requirement for throughput in order to finance processing and marketing operations is found in the Act, particularly in sections 1.11 and 2.4. FCA regulations echo the requirements in the Act and do not place any additional quantifier on how much throughout is required. While we are not aware of any regulatory changes that we could make in implementation of this statutory requirement at this time, we note that we do have an active project on our 2014 Regulatory Projects Plan to review our regulations relating to lending to farm-related businesses. We will consider this comment in connection with that review.

C. Participations/Syndications Reporting Requirements

Comment: Farm Credit East commented that the reporting requirements in the participations/syndications study are burdensome and manually intensive. Farm Credit East states that the study has been in place for several years and it would be appropriate for the FCA to revise the definition of participation therefore eliminating the burdensome nature of the study.

FCA Response: The FCA appreciates that the reporting requirements for this study can be inconvenient in the short term. However, we believe that detailed reporting is necessary for a thorough analysis of the issue and credibility of the study. We will take these comments into consideration as we continue to evaluate the syndication study and its reporting requirements.

D. Liquidity Reserve

Comment: The Council stated that under § 615.5143, securities used for investment, risk management, or cash management purposes cannot count toward meeting regulatory liquidity standards. The Council states that the FCA's requirement that an investment serve a single purpose is unduly burdensome and increases costs for System institutions.

FCA Response: Section 615.5143 provides that ineligible investments may not satisfy liquidity requirements under § 615.5134. Section 615.5134(c) provides that an unencumbered investment held in the liquidity reserve cannot be used as a hedge against interest rate risk if liquidation of that particular investment would expose the bank to a material risk of loss. Inversely, as the FCA discussed in the preamble to its final rule on investment management, the rule allows a System bank to hedge interest rate risk with assets held in the liquidity reserve provided that the hedging activity would not expose the bank to a material risk of loss in a liquidity crisis.[2] This issue was vetted recently in connection with that rulemaking and we continue to believe that for safety and soundness reasons all assets held in the liquidity reserve should be unencumbered, marketable, and should not be used as a hedge against interest rate risk if liquidation of that particular investment would expose the bank to a material risk of loss. The FCA encourages the Council and others to consider submitting this and related comments in response to the FCA's request for comment on its proposed Investment Eligibility rule.[3]

E. Issuance of Equities

Comment: The Council commented that the 60-day approval window required under § 615.5255(f) for issuance of equities can preclude a System institution from taking advantage of market conditions and result in a more costly preferred stock issuance. The Council suggested that the FCA consider establishing a shelf registration process which could provide for a standardized preferred stock offering and be valid for a set period of time. The FCA could approve the terms and conditions of the offering. When the institutions determine that market conditions are right, they could submit revised recent financial results for expedited FCA approval and then issue the preferred stock.

FCA Response: The FCA agrees that there may be situations in which a shelf registration process is efficient. The FCA is open to and will consider and evaluate any institution request under § 615.5255 to establish a shelf registration for a standardized preferred stock offering for a set period of time. We would prefer to continue to address this topic on a case-by-case basis under § 615.5255 until we and FCS institutions have gained more experience with shelf approvals. After further study, FCA may propose changes to § 615.5255 to incorporate shelf approvals or may provide guidance in an Agency Bookletter or Informational Memorandum.

F. Borrower Rights

Comment: Lone Star commented that the requirements outlined under § 617.7410(a) should be clarified or expanded to recognize and take into account that the purpose of a distressed

[2] *See* 78 FR 23438, 23450 (April 18, 2013).

[3] *See* FCA News Release, June 12, 2014; *http://www.fca.gov*. Following a 30-day period for congressional review, the proposed rule will be published in the **Federal Register** for a 90-day comment period.

loan restructuring and safety and soundness are not satisfied when a borrower engages in criminal activity or diverts, wastes, or dissipates collateral. Lone Star further stated that a qualified lender should not be required to offer a distressed loan restructuring to a borrower who has engaged in a criminal activity, such as fraud, false statements on an application, false financial information, misapplication of fiduciary property, or related activities independent of collateral issues altogether. The qualified lender, under those circumstances, should be able to take actions necessary to protect the collateral and minimize the loss to the institution without having to first offer an opportunity to restructure the distressed loan.

FCA Response: The rules regarding borrower rights are set forth by statute. The Act provides generally that a lender may not foreclose on any distressed loan before providing notice and giving the borrower an opportunity to apply for loan restructuring. *See* section 4.14A(b). A lender may consider the borrower's management skills to protect the collateral, including any suspected wrongful activity, in the lender's consideration of the borrower's application for restructuring. *See* section 4.14A(d). The lender's authority to enforce a contractual provision allowing foreclosure without following restructuring procedures is also dictated by statute. The Act provides that a lender may enforce contractual provisions that allow the lender to foreclose if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed or permanently removed from the State. *See* section 4.14A(j). The FCA is unable to issue regulations expanding upon this statutory authority. In analyzing a restructuring application and in considering whether a lender has grounds for taking immediate action to protect collateral, we caution that suspicion or evidence of a criminal act or the filing of a criminal referral to appropriate authorities does not establish guilt of any criminal activity.

Comment: Farm Credit East commented that in cases where a borrower has recommended a loan restructuring plan and the association wishes to accept that plan, it should not be required to conduct a separate least cost analysis for the restructuring request.

FCA Response: FCA has previously concluded in its Frequently Asked Questions on borrowers' rights, available on our Web site, that the least cost analysis is required by the Act, is appropriate for a safe and sound analysis of whether to restructure the loan, and should be prepared for every plan of restructure. Section 4.14A(d) of the Act provides that when a qualified lender receives an application for restructuring from a borrower, the qualified lender must consider, in determining whether or not to restructure the loan, whether the cost of restructuring is equal to or less than the cost of foreclosure. Such analysis provides a sound basis for an association to determine whether and under what terms a restructuring application should be approved. FCA is frequently reviewing issues relating to borrowers' rights as part of its examination process as well as its borrower complaint review process. We will give further consideration to this comment and consider whether we can provide any additional guidance or identify options for conducting a more streamlined analysis for new restructuring applications that the association believes should be approved, when a least cost analysis with respect to the loan has already been performed.

G. Production of Confidential Documents

Comment: The Council stated that the FCA should amend § 618.8330 to permit an institution to produce documents in cases when an attorney is acting as an officer of the court in states where that is permitted. AgSouth, FCSA and Farm Credit East stated that the current process related to the production of documents during civil litigation requires an order signed by a judge and creates unnecessary burdens of time and expense for the association, while affording no additional protection to the borrower. AgSouth stated that each state has rules in place that require counsel to maintain the confidentiality and integrity of the information sought and there is no discernible risk to the borrower over having a judge issue the order.

FCA Response: Section 618.8330(a) allows a bank or association to disclose confidential information if it is a party to the litigation. Section 618.8330(b) provides that if a bank or association is not a party to the litigation, confidential borrower information may be released only if a judge issues an order. We understand and appreciate the feedback that this requirement may pose an inconvenience to the institution. At the same time, we believe it is important to ensure impartial and fair decisions as to whether the litigant needs the confidential information in the institution's possession. Although we are not proposing a regulatory change at this time, we will research and consider the state of the law on discovery orders and whether there may be alternative means of protecting confidential institution and borrower information while providing more flexibility and less burden for institutions.

H. Financing for Farm-Related Services

Comment: The Council and Farm Credit East stated that we should consider a revision to § 613.3020 regarding eligibility for farm-related service financing. Both believe that the Act allows the FCA considerable discretion in defining the types of businesses eligible to be considered "farm-related" services and that the 50-percent requirement for full financing is too restrictive. The Council stated that in many cases involving farm-related businesses, the service component is so interwoven with the product being provided, any attempt to distinguish the service amount from the value of the product can be arbitrary. The Council noted that the FCA included an "end review" of the Farm Related Services authority on its Fall 2013 Regulatory Agenda. The Council and Farm Credit East also stated that the FCA should include "aquatic-related" service providers as eligible for System financing. Further, the Council believes the FCA should undertake a comprehensive review of the statutory authority and remove any impediments to eligibility for System financing that is not based on the Act.

FCA Response: The FCA is conducting an ongoing review to evaluate the System's lending to farm-related service businesses under § 613.3020 and whether our regulations provide the appropriate framework for determining eligibility and purposes of financing for service providers, including service providers within local food systems, in accordance with the Act. We are considering these comments as part of that review. As indicated in FCA's 2014 Regulatory Projects Plan, the FCA projects it will continue this review through September of 2014.

With respect to aquatic-related services, sections 1.9(2), 1.11(c)(1), and 2.4(a)(3) of the Act authorize title I and II System lenders to extend credit to businesses that furnish farm-related services to farmers and ranchers directly related to their on-farm operation needs. The Act does not reference financing businesses that furnish aquatic-related services to aquatic producers and harvesters. We are closely following this topic.

I. Advisory Votes on Senior Officer Compensation

Comment: Farm Credit East commented that § 611.410, which addresses non-binding advisory votes on senior officer compensation, should be repealed as it raises legal liability issues for System directors. Farm Credit East stated further that the regulations are unnecessary and burdensome.

FCA Response: On June 9, 2014, the FCA Board approved a final rule to remove non-binding, advisory vote provisions [4] and repeal this regulation.

J. Inconsistent Interpretations of Regulations and Guidance

Comment: The Council noted a concern regarding Agency interpretations of existing regulations. The Council stated that in many cases the guidance provided by the FCA with respect to regulations is helpful, but in some cases the Agency confuses "other guidance" with adopted regulations. The Council stated that one area System institutions report inconsistent interpretations by examiners is the requirement for System institution Human Capital Plans under § 618.8440(b)(7). Another concern noted by the Council relates to Federal Financial Institutions Examination Council (FFIEC) guidance. The Council stated that the FCA often makes reference to guidance from the FFIEC but considers it voluntary. The Council asserted that if the FCA references FFIEC guidance, it would be more appropriate to go through the proper procedures for adopting the guidance formally.

FCA Response: The FCA appreciates this feedback on its regulatory and examination activities. We agree that inconsistent interpretations of our regulations or guidance can create confusion and can be burdensome to institutions. We are committed to working to reduce any inconsistencies that may exist. To address the specific issue with respect to the Human Capital Plans required by § 618.8440(b)(7),[5] we hope that FCA's "Frequently Asked Questions (FAQ) on Operating and Strategic Business Planning for Diversity and Inclusion" will help reduce inconsistencies in interpretation of those requirements.[6] Questions 4 through 10 of the FAQs address Human Capital Plans. The Office of Examination is working diligently to ensure a consistent examination approach to these provisions.

The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the Federal examination of financial institutions. Its members include the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Consumer Financial Protection Bureau. While the FCA is not a FFIEC member, it does publish interagency regulations with some of the FFIEC members, and it shares common goals including uniformity in the regulation of, and safety and soundness in, financial institutions. FFIEC guidance, unless adopted by FCA, is not mandatory for FCS institutions, although the guidance can be useful as an example of a best practice for FFIEC member institutions. FCA commits to better communicating what references are requirements for compliance, guidance or best practices in its examination and supervision, policy development, and legal functions.

K. Obsolete References

Comment: The Council pointed out that FCA regulations at §§ 615.5206, 615.5208, and 630.20(g)(3)(i)(A) contain references to the Financial Assistance Corporation and those obsolete references should be removed.

FCA Response: The FCA has proposed removing two of the obsolete references in its proposed rule on Regulatory Capital, Implementation of Tier 1/Tier 2 Framework and will remove the remaining obsolete reference in the final rule or another rulemaking.[7]

III. Future Efforts To Reduce Regulatory Burden on System Institutions

As noted above, we will consider some of the regulatory burden issues raised in separate regulatory projects. We will continue our efforts to remove regulatory burden. However, we will maintain those regulations that are necessary to implement the Act and are critical for the safety and soundness of the System. Our approach is intended to enable the System to continue to provide credit to America's farmers, ranchers, aquatic producers, their cooperatives and other rural residents.

[4] *See* 79 FR 34621, June 18, 2014.

[5] *See* 77 FR 25577, May 1, 2012.

[6] The FAQs can be found at *http://www.fca.gov/about/businessplanning-diversity.html.*

[7] *See* FCA News Release, May 8, 2014; *http://www.fca.gov.*

Dated: July 11, 2014.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2014–16695 Filed 7–18–14; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 417, 431, and 435

[Docket No.: FAA–2014–0418; Notice No. 14–05]

RIN 2120–AK06

Changing the Collective Risk Limits for Launches and Reentries and Clarifying the Risk Limit Used To Establish Hazard Areas for Ships and Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to amend the collective risk limits for commercial launches and reentries. Under this proposal, the FAA would separate its expected-number-of-casualties (E_c) limits for launches and reentries. For commercial launches, the FAA proposes to aggregate the E_c posed by the following hazards: Impacting inert and explosive debris, toxic release, and far field blast overpressure. The FAA proposes to limit the aggregate E_c for these three hazards to 1×10^{-4}. For commercial reentries, the FAA proposes to aggregate the E_c posed by debris and toxic release, and set that E_c under an aggregate limit of 1×10^{-4}. Under the FAA's proposal, the aggregate E_c limit for both launch and reentry would be expressed using only one significant digit.

The FAA also proposes to clarify the regulatory requirements concerning hazard areas for ships and aircraft. The proposed rule would require a launch operator to establish a hazard area where the probability of impact does not exceed: 0.000001 (1×10^{-6}) for an aircraft; and 0.00001 (1×10^{-5}) for a water-borne-vessel.

DATES: Send comments on or before October 20, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0418 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey

Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Rene Rey, AST–300, Office of Commercial Space Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7538; email *Rene.Rey@faa.gov.*

For legal questions concerning this action, contact Alex Zektser, AGC–250, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email *Alex.Zektser@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on commercial space transportation safety is found in Title 49 of the United States Codes, section 322(a), which authorizes the Secretary of Transportation to carry out the Commercial Space Launch Act of 1984, as amended and re-codified at 51 United States Code (U.S.C.) Subtitle V—Commercial Space Transportation, ch. 509, Commercial Space Launch Activities, 51 U.S.C. 50901–50923 (the Act). The Act authorizes the Secretary of Transportation and thus the FAA, through delegations, to oversee, license, and regulate commercial launch and reentry, and the operation of launch and reentry sites as carried out by U.S. citizens or within the United States. 51 U.S.C. 50904, 50905. The Act directs the FAA to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States. 51 U.S.C. 50905. Section 50901(a)(7) directs the FAA to regulate only to the extent necessary, in relevant part, to protect the public health and safety and safety of property. The FAA is also responsible for encouraging, facilitating, and promoting commercial space launches and reentries by the private sector. 51 U.S.C. 50903.

I. Background

This rulemaking addresses the risks associated with commercial space launch and reentry. Launch is conducted using expendable launch vehicles (ELVs) and reusable launch vehicles (RLVs). Reentry is conducted with RLVs or other reentry vehicles. An ELV is a launch vehicle whose propulsive stages are flown only once. An RLV is a launch vehicle that is designed to return to Earth substantially intact and, therefore, may be launched more than one time or that contains vehicle stages that may be recovered by a launch operator for future use in the operation of a substantially similar launch vehicle. A reentry vehicle is a vehicle designed to return from Earth orbit or outer space substantially intact, and includes a reentering RLV.[1]

Parts 417, 431 and 435 of Title 14 of the Code of Federal Regulations (14 CFR) limit the collective risk posed to the public by commercial launches and reentries by, among other things, limiting the expected number of casualties (E_c). These E_c regulations are based primarily on E_c limits that the United States (U.S.) Air Force imposed on launches from federal launch ranges at the time the FAA began establishing E_c limits.[2] In addition to imposing E_c limits on risk posed by launches and reentries to collective members of the public, these regulations also impose separate limits on the risk posed by these operations to individual members of the public.

A. Launch Risk Limits of an ELV

The FAA's limitations to collective risk associated with commercial launches of ELVs are set out in part 417. Section 417.107(b) applies to all commercial ELV launches, and it allows a launch operator to initiate the flight of an ELV only if the collective risk to the public is within: (1) An E_c limit of 30×10^{-6} for impacting inert and impacting explosive debris; (2) an E_c limit of 30×10^{-6} for toxic release; and (3) an E_c limit of 30×10^{-6} for far field blast overpressure.

The FAA first used an E_c limit of 30×10^{-6} in 1999, when, as part of a rulemaking to regulate ELV launches from Federal launch ranges, the FAA adopted the U.S. Air Force's public risk E_c limit of 30×10^{-6} to limit the risk associated with debris.[3] At that time, the FAA only applied the E_c limit to the hazard caused by vehicle debris.[4] Subsequently, the FAA proposed to extend the 30×10^{-6} E_c limit to all commercial ELV launches, which would be regulated by part 417.[5] In its part 417 NPRM, the FAA initially proposed to limit to 30×10^{-6} the combined risk posed by debris, toxic release, and far field blast overpressure.[6]

The FAA received a number of comments objecting to this proposal, arguing that the proposed aggregate 30×10^{-6} E_c limit for debris, toxicity, and far field blast overpressure was too low.[7] In response to these comments, the FAA considered regulating the hazards of toxicity, debris, and far field blast overpressure under a single E_c limit, but ultimately set the limit at a higher level than the proposed 30×10^{-6}.[8] In support of this approach, the FAA noted that "a risk assessment that determines the total risk due to all hazards associated with a single launch would be an ideal approach."[9] However, the FAA ultimately rejected this approach, reasoning that a higher E_c limit "would have been difficult to justify in the absence of historical data on which to base it."[10] The FAA also noted that aggregating the E_c posed by toxicity, debris, and far field blast

[1] *See* 14 CFR 401.5 (definitions of expendable launch vehicle, reusable launch vehicle, and reentry vehicle).

[2] *See, e.g., Commercial Space Transportation Licensing Regulations, Final Rule (Launch Licensing Rule),* 64 FR 19586, 19605 n.11 (Apr. 21, 1999).

[3] *Id.*

[4] *Id.*

[5] *Licensing and Safety Requirements for Launch, Notice of Proposed Rulemaking* (Launch NPRM), 65 FR 63922, 63981 (Oct. 25, 2000).

[6] *Id.*

[7] *See Licensing and Safety Requirements for Launch, Supplemental Notice of Proposed Rulemaking* (Launch SNPRM), 67 FR 49456, 49461 (July 30, 2002).

[8] *Id.* at 49463.

[9] *Id.* at 49461.

[10] *Id.*

overpressure would be problematic because: (1) Conservative methodology for estimating the E_c for toxicity, debris, and far field blast overpressure used assumptions unique to each hazard; and (2) toxicity, debris, and far field blast overpressure cause injury in different ways, and thus, it was difficult to normalize the injuries caused by these hazards in a manner that would allow them to be added together.[11]

As a result, the FAA decided to retain the 30×10^{-6} E_c limit that was being used by the U.S. Air Force. In order to address the commenter's concerns, in the final rule, the FAA separated the three hazards of toxicity, debris, and far field blast overpressure and placed each under its own E_c limit of 30×10^{-6}.[12] In addition, the rule imposed a separate E_c limit of 1×10^{-6} on risk to individual members of the public posed by each of these three hazards.[13]

B. Risk Limits of Reentry Vehicles

The FAA's risk limitations for launches and reentries of RLV's and other reentry vehicles are found in parts 431 and 435. Part 431 governs the launch and reentry of one type of a reentry vehicle: A reusable launch vehicle (RLV). Section 431.35(b)(1) prohibits the combined E_c of the launch and reentry of an RLV from: (1) Exceeding 30×10^{-6} for vehicle or vehicle debris impact hazards to the collective members of the public; and (2) exceeding 1×10^{-6} for vehicle or vehicle debris impact hazards to individual members of the public.

Part 435 governs the launch and reentry of all other types of reentry vehicles. Section 435.35 subjects reentry vehicles to the RLV E_c limitations of § 431.35(a) and (b) for the combined risk associated with launch and reentry.

The FAA did not apply separate E_c limits to the launch and reentry of reentry vehicles because separate limits could have resulted in a launch E_c of 30×10^{-6} and a reentry E_c of 30×10^{-6}, which, the FAA noted, would have resulted in a total E_c of 60×10^{-6}.[14] Accordingly, the FAA rejected commenters' requests to set the launch and reentry of an RLV and other reentry vehicle under separate E_c limits.

C. New Developments In Implementing Risk Limits

Recent developments have led the FAA to review its collective risk limits. In 2010, the U.S. Air Force, after conducting over 5,000 launches under a 30×10^{-6} E_c limit, increased its collective-risk E_c launch limit from 30×10^{-6} per hazard to 100×10^{-6} for the aggregate public risk associated with debris, toxicity, and far field blast overpressure combined. The U.S. Air Force's new E_c standards also apply a separate E_c limit to reentry, limiting reentry risk to an E_c to 100×10^{-6} for the aggregate public risk associated with debris, toxicity, and far field blast overpressure. In addition, in 2010, the National Aeronautics and Space Administration (NASA) also revised its risk acceptability policy to limit the aggregate risk for launch to 100×10^{-6} for each mission. NASA's revision also sets the aggregate risk for reentry under a separate 100×10^{-6} E_c limit. Before this revision, NASA launched over 100 ELVs under an E_c of 30×10^{-6} for each hazard.[15]

Because the FAA's current E_c limits are based on a U.S. Air Force limit that both the U.S. Air Force and NASA, after considerable experience, have now rejected, the FAA believes that its existing collective risk limits may no longer be appropriate. In addition, as discussed below, experience has led the FAA to conclude that its current E_c limits create an obstacle to NASA's implementation of the National Space Policy.

In 2010, President Obama issued a National Space Policy that directed U.S. government departments and agencies to purchase and use commercial space capabilities and services to the maximum practical extent when such capabilities and services are available in the marketplace and meet United States Government requirements.[16] Pursuant to this policy, NASA expanded its use of the Commercial Orbital Transportation Services (COTS) program, which utilized commercial space operations to accomplish NASA missions. The COTS program was designed to stimulate efforts by the private sector to demonstrate safe, reliable, and cost-effective space transportation to the International Space Station.

As part of its COTS program, NASA entered into a Space Act Agreement with Space Exploration Technologies Corporation. (SpaceX). This agreement required SpaceX to launch and reenter a reentry vehicle with the goal of ultimately reaching the International Space Station (ISS). SpaceX conducted two missions under the COTS program.[17] NASA also entered into an agreement with Orbital Sciences Corporation (Orbital) with a similar goal of reaching the ISS. In addition to launches under the above programs, SpaceX has also recently performed a mission to launch a scientific research satellite for NASA into orbit.

The first ISS mission occurred in 2010, when SpaceX launched and reentered the first commercially-launched reentry vehicle into orbit. SpaceX's vehicle included systems that mitigated the risk associated with the launch and reentry of that vehicle. In spite of these mitigations, the E_c for vehicle debris from the combined launch and reentry of SpaceX's vehicles exceeded the 30×10^{-6} limit imposed by § 431.35(b)(1)(i), which applies to reentry vehicles through § 435.35. Because the E_c for vehicle debris would have exceeded the E_c limits, SpaceX applied to the FAA for a waiver.

In order to grant a waiver, the FAA had to determine whether, among other things, the grant would jeopardize public health and safety or safety of property,[18] and concluded that, in spite of the mission's total E_c of 47×10^{-6}, SpaceX's mission would not jeopardize public health and safety or safety of property.[19] The FAA issued SpaceX a waiver from § 431.35(b)(1)(i).[20] The FAA's determination relied on the fact that, when viewed separately, the launch had an E_c under 30×10^{-6} and the reentry also had an E_c under 30×10^{-6}. The FAA treated the launch and reentry as separate events because SpaceX's reentry vehicle would perform a health check after completing a launch, and the results of the health check would be used to determine whether to commence reentry. This health check was an intervening event, as contemplated in the original rulemaking,[21] and allowed the FAA to treat launch and reentry as separate events. SpaceX's mission was successful, and resulted in no harm to members of the public.

SpaceX's second COTS mission occurred in 2012, when SpaceX launched and reentered another reentry vehicle that also exceeded the FAA's E_c

[11] *Id.* at 49462.

[12] *Licensing and Safety Requirements for Launch, Final Rule,* 71 FR 50508, 50516 (Aug. 25, 2006).

[13] *See id.* at 50542; 14 CFR 417.107(b)(2).

[14] *Launch Licensing Rule,* 64 FR at 19635.

[15] *See* "A History of the Use of the Risk Acceptability Criterion, 30×10^{-6} Casualties per Launch", ACTA Inc., Presented to the Committee on Launch Range Safety (May 24,1999).

[16] National Space Policy of the United States of America, at 10 (June 28, 2010) *http://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf.*

[17] NASA has now concluded the COTS program, and has entered into a new arrangement with SpaceX for future missions to the International Space Station.

[18] 51 U.S.C. 50905(b)(3); 14 CFR 404.5(b).

[19] *Waiver of Acceptable Mission Risk Restriction for Reentry and Reentry Vehicle,* 75 FR 75619 (Dec. 6, 2010).

[20] *Id.*

[21] *See id.*

limits. The U.S. Air Force,[22] pursuant to § 417.203(d) requirements, estimated E_c for debris from SpaceX's 2012 launch to be between 98×10^{-6} and 121×10^{-6} at the time that SpaceX applied to the FAA for launch and reentry licenses. Even though these E_c numbers exceeded the 30×10^{-6} E_c limits of parts 417 and 431, after the FAA examined the details of SpaceX's vehicle and mission plans, the FAA concluded that SpaceX's launch would not jeopardize public health and safety or safety of property.[23] A major factor in the FAA's determination was that the low end of the E_c estimate, 98×10^{-6}, which included significant conservatism, was lower than the 100×10^{-6} E_c limit used by the U.S. Air Force.

Also for the waiver, the FAA examined SpaceX's reentry and concluded the reentry would not jeopardize public health and safety or safety of property because, if the reentry was viewed separately from launch, the E_c for reentry was under 30×10^{-6}.[24] Accordingly, the FAA again issued SpaceX a waiver from the 30×10^{-6} Ec limits.[25] SpaceX's 2012 mission was ultimately successful and harmed no member of the public.

The third ISS mission was conducted by Orbital and took place in 2013. The launch phase of this mission had a far-field-blast-overpressure E_c that exceeded 30×10^{-6}. The FAA granted a waiver to the E_c limits for this mission relying on the fact that the E_c for debris, toxic release, and blast overpressure combined would not exceed the 100×10^{-6} E_c limit used by the U.S. Air Force.[26] This mission was ultimately successful and harmed no member of the public.

Finally, in 2013, SpaceX conducted a mission in which it launched a research satellite into space for NASA. The far-field-blast-overpressure E_c for the launch phase of this mission exceeded the FAA's 30×10^{-6} limit, but was within the 100×10^{-6} limit used by the U.S. Air Force. Relying on the fact that this E_c would not exceed the limits used by the U.S. Air Force, the FAA found that this mission would not jeopardize public health and safety and the safety or property, and granted SpaceX a waiver from the E_c limitations.[27] This mission was ultimately successful and harmed no member of the public.

The FAA expects that future missions flown under contract with NASA to the ISS may present a collective risk that is similar to the risk presented by the SpaceX and Orbital ISS missions. This is because the collective risk posed by these missions is driven in large part by the flight path from the United States to the ISS that must be taken during launch. This flight path is expected to remain unchanged, and as such, the risk associated with these missions is unlikely to change significantly in the near future. The FAA also expects a significant number of other future commercial launches and reentries, such as SpaceX's research satellite mission, to exceed the existing E_c limits. This is because commercial space transportation is a relatively new industry, and the probability of failure of a new ELV or RLV is relatively high.[28] This high probability of failure often results in higher E_c estimates.

The FAA's existing collective risk limits are no longer appropriate because the U.S. Air Force has rejected the E_c standard on which these limits were based after operating over 5,000 launches under the 30×10^{-6} E_c collective-risk standard. NASA has likewise rejected the 30×10^{-6} E_c standard after operating approximately 129 launches under that standard. Based on this change in position by two agencies with significant launch and reentry risk experience and based on its own experience of having to issue E_c waivers, the FAA has concluded that its existing E_c limits regulate more than is necessary to protect public health and safety and safety of property. Accordingly, the agency now seeks to change its collective risk limitations for launch and reentry in a manner that would maintain public safety and be less burdensome on the regulated parties and the FAA.

II. Overview of Proposed Rule

The FAA proposes to change its collective risk limits for launch and reentry to more closely match the E_c standard currently used for government missions by the U.S. Air Force and NASA in a manner that properly addresses the level of uncertainty that exists in E_c calculations. For all launches, regardless of vehicle type, the FAA proposes to aggregate the risk posed to the collective members of the public from the following hazards: (1) Impacting and inert explosive debris, (2) toxic release, and (3) far field blast overpressure. The proposed rule would prohibit an aggregate E_c of these three hazards from exceeding 1×10^{-4}. Because of the uncertainty in E_c calculations, this E_c limit would be expressed using only one significant digit.

For all reentries, for the reasons it provided in the SpaceX waivers, the FAA proposes to split up launch and reentry risk limits for collective members of the public so that launch and reentry no longer have to take place under a single E_c limit for both activities. Launches of RLV's and other reentry vehicles would be governed by the proposed launch limit of 1×10^{-4} for all three hazards.

Reentries would be subject to a separate 1×10^{-4} E_c limit that would account for the aggregated risk posed by vehicle debris and toxic release. While the existing reentry risk limits do not require an operator to account for risks arising out of a toxic release, the next generation of reentry vehicles could present significant toxicity dangers to the public. Accordingly, the FAA proposes to establish a risk limit for this reentry hazard. In addition, due to the uncertainty associated with the E_c calculations, the 1×10^{-4} reentry E_c limit would be expressed using one significant figure in the same manner as the launch E_c limit.

The FAA also proposes to clarify the regulatory requirements of part 417 concerning hazard areas for ships and aircraft. Section 417.107(b) currently requires a launch operator to establish aircraft and water-borne vessel hazard areas "that provide an equivalent level of safety" to the hazard areas provided for launch from a federal launch range.

Under proposed section 417.107(b)(4), a hazard area for aircraft would satisfy part 417 if the probability of impact with debris capable of causing a casualty on any given aircraft in the vicinity of that hazard area did not exceed 0.000001 (1×10^{-6}). Under proposed section 417.107(b)(3), a hazard area for water borne vessels would satisfy part 417 if the probability of impact with debris capable of causing a casualty on any given water borne vessel did not exceed 0.00001 (1×10^{-5}).

This proposed rule would achieve a quantified net benefit by eliminating the costs associated with waivers for commercial space launches with an aggregate E_c between 90×10^{-6} and 149×10^{-6} and for reentries with a debris E_c exceeding 30×10^{-6}. The resulting savings for both the industry and the

[22] Section 417.203(d) states, in part, that the "FAA will accept a flight safety analysis used by a Federal launch range without need for further demonstration of compliance to the FAA. . . ."

[23] *Waiver of Acceptable Risk Restriction for Launch and Reentry*, 77 FR 24556 (Apr. 24, 2012).

[24] The reentry portion of the waiver analysis for SpaceX's 2012 mission summarily adopts the reasoning set out in the waiver for SpaceX's 2010 mission.

[25] *Id.*

[26] A copy of this waiver can be found in the docket for this rulemaking.

[27] *Waiver to Space Exploration Technologies Corporation of Acceptable Risk Limit for Launch*, 78 FR 52998 (Aug. 27, 2013).

[28] *See* 14 CFR part 417, Appendix A.

FAA with an estimated mid-point would be approximately 695,754 ($456,699 present value at a 7% discount rate). The lower and the higher estimates are approximately $0.3 million and $1 million ($283,619 and $688,866 present value at a 7% discount rate), respectively. This proposed rule would also result in the unquantified benefit of expanding launch capability by avoiding mission delays and scrubs. The costs of this proposed rule, if any, are minimal.

III. Discussion of the Proposal

A. Maintaining the Status Quo on Risk Limits to An Individual Member of the Public

Launch and reentry are each governed by two separate E_c limits: (1) An E_c limit on risk posed to the collective members of the public; and (2) a limit on risk posed to an individual. Although the specific numerical limits for collective and individual risk are different, they currently function under a similar regulatory structure. Specifically, individual risk limits prohibit the launch risk to an individual from exceeding an E_c of 1×10^{-6} for each hazard (debris, toxic release, and far field blast overpressure) for launch of an ELV vehicle.[29] For reentry of an RLV or other reentry vehicle, the pertinent regulations prohibit the risk to an individual from exceeding an E_c of 1×10^{-6} per mission.[30]

To date, the FAA has had to issue a waiver to the collective E_c limit for every commercial space operation that sought to reach the ISS. In contrast, the FAA has never had to issue a waiver to the limits on risk posed to an individual. To date, the FAA has only had to consider one request for a waiver from the individual risk limits, and the FAA denied that request, stating that "[u]nlike public risk, individual risk can almost always be mitigated through reasonable means." [31] Because the FAA has never needed to waive the limits governing risk to an individual, the FAA proposes no changes to its limits on individual risk. Moreover, the FAA's current individual risk limit is consistent with the U.S. Air Force and NASA's standards.

The FAA invites comment on this issue, and on whether the limits governing risk to an individual should be changed in light of the changes proposed by this NPRM to the E_c limits governing risk to the collective members of the public.

B. Aggregation of Launch Hazards and Setting An E_c Limit At 1×10^{-4}

Turning to the E_c limits governing risk to the collective members of the public, part 417, which governs the launch of ELVs, prohibits ELV launches from exceeding the following collective E_c limits: (1) A limit of 30×10^{-6} for impacting inert and explosive debris; (2) a limit of 30×10^{-6} for toxic release; and (3) a limit of 30×10^{-6} for far field blast overpressure. Proposed section 417.107(b)(1) would state that an ELV launch operator may initiate the flight of a launch vehicle only if the total risk associated with the launch to all members of the public, excluding persons in water-borne vessels and aircraft, did not exceed an expected average number of 0.0001 casualties ($E_c \leq 1 \times 10^{-4}$). The total risk would consist of the risk posed by impacting inert and impacting explosive debris, toxic release, and far field blast overpressure. As it currently requires, the FAA would determine whether to approve public risk due to any other hazard associated with the proposed flight of a launch vehicle on a case-by-case basis. Again, as it currently requires, this E_c criterion would apply to each ELV launch from lift-off through orbital insertion, including each planned impact, for an orbital launch, and through final impact for a suborbital launch.

As discussed above, during the rulemaking that created the part 417 E_c limits, the FAA wanted to set debris, toxicity, and far field blast overpressure under a single aggregate E_c limit, noting that such a limit would be "ideal." [32] This is because, in setting collective risk limits, what matters is the number of people who could be seriously injured by a launch rather than the number of people who could be injured by a specific hazard. For example, under current E_c limits, an ELV that has an E_c of 30×10^{-6} for toxicity, an E_c of 30×10^{-6} for debris, and an E_c of 30×10^{-6} for far field blast overpressure would be allowed to initiate launch without a waiver. For this ELV, the total E_c posed by the three hazards would be 90×10^{-6} (30×10^{-6} for toxicity + 30×10^{-6} for debris + 30×10^{-6} for far field blast overpressure). Conversely, an ELV with an E_c of 31×10^{-6} for debris and an E_c of 0 for toxicity and far field blast overpressure would not be allowed to launch under current regulations because its debris E_c would exceed 30×10^{-6}. Thus, in this example, an ELV with total average expected serious injuries of 90×10^{-6} would be allowed to launch under the existing regulations, while an ELV with significantly lower total average expected serious injuries of 31×10^{-6} would not be allowed to launch simply because of the manner in which those potential injuries are caused.

Because, as the above example shows, the existing regulatory approach does not properly limit the total number of expected average injuries, the FAA noted during the part 417 rulemaking that this was not the ideal regulatory approach.[33] However, the FAA was ultimately forced to settle for this approach because at the time, the FAA did not have historical data on which to base a higher E_c limit,[34] which would have been necessary in order to aggregate the risk posed by toxicity, debris, and blast overpressure.[35]

The FAA now has the requisite historical data. In 2010, the U.S. Air Force, after conducting over 5,000 launches under the 30×10^{-6} E_c limit that formed the basis for the FAA's E_c regulations, has recently changed its limits as a result of its operational experience. The U.S. Air Force now uses an E_c limit for launch of 100×10^{-6} and an E_c limit for reentry of 100×10^{-6}. Each of these limits applies to the combined risk posed by toxicity, debris, and far field blast overpressure. Similarly, in 2010 NASA, after conducting approximately 129 launches under an E_c standard of 30×10^{-6}, also changed its requirements to aggregate the risk posed by toxicity, debris, and far field blast overpressure under an E_c limit of 100×10^{-6}.[36] The FAA did not have the benefit of the U.S. Air Force and NASA's 2010 changes in position during its part 417 rulemaking.

In particular, at this time there have been over 100 U.S. launches and reentries where the predicted risks to people on the ground significantly exceeded 100×10^{-6} E_c, all without any casualties as expected. For example, debris risks from the 135 space shuttle launches and reentries routinely exceeded 100×10^{-6} E_c. Specifically, all of NASA's 21 [37] post–Columbia launches exceeded 100×10^{-6} E_c on

[29] *See* 14 CFR 417.107(b)(2).

[30] *See* 14 CFR 431.35(b)(1)(ii) and 435.35.

[31] Letter to Christopher H. DeMars, Orbital Sciences Corporation, from Kenneth Wong, Manager, AST Licensing and Evaluation Division (Dec. 13, 2013). A copy of the FAA's waiver denial letter may be found in the docket.

[32] Launch SNPRM, 67 FR at 49461.

[33] *See id.*

[34] *Id.*

[35] In the rationale for its decision not to aggregate the risk posed by toxicity, debris, and blast overpressure, the FAA also stated that it would be difficult to normalize among these three hazards. That part of the FAA's rationale is discussed below.

[36] *NASA Procedural Requirements (NPR) 8715.5A* (Sep. 17, 2010). A copy of this document may be found in the docket.

[37] See "Aggregate Data" (2014), which may be found in the docket.

Kennedy Space Center property,[38] and at least 9 of those exceeded 30×10^{-6} E_c for members of the public outside of Kennedy Space Center. In addition, 20 post–Columbia re-entries exceeded 100×10^{-6} E_c to the public by at least a factor of three.

The U.S. Air Force also approved at least two Titan IVB launches that exceeded 100×10^{-6} E_c either due to debris, toxics, or far field blast overpressure hazards. For example, in 1998, the U.S. Air Force successfully launched a Titan IV B–12[39] mission with an E_c of about 200×10^{-6} E_c due to far field blast overpressure hazards in the launch area. Another example occurred in 2005 when the U.S. Air Force approved a government launch of the Titan IV B–30 mission with a predicted debris risk between a factor of 1.5 to 3 above 100×10^{-6} E_c attributable to downrange overflight.[40] Neither of these missions harmed members of the public.[41]

The FAA has already begun to rely on the U.S. Air Force's new E_c limits as part of its collective-risk analysis. For example, in its analysis of SpaceX's proposed 2012 launch, the FAA estimated that the launch would result in a debris E_c ranging from 98×10^{-6} to 121×10^{-6}. However, even though these E_c totals were over the FAA's 30×10^{-6} E_c limit, the FAA ultimately concluded that SpaceX's launch would not pose a danger to persons or property because the low end of the E_c estimate (98×10^{-6}) was lower than the 100×10^{-6} E_c limit that is now being used by the U.S. Air Force.[42] The FAA has also heavily relied on the U.S. Air Force's standards in granting the three other waivers described above.

Accordingly, because the government launches on which the FAA waivers were based provide the FAA with the historical data necessary to select a higher E_c limit, the FAA proposes to revise part 417 to aggregate the collective risks posed by toxicity, debris, and far field blast overpressure associated with commercial ELV launches. Under the FAA's proposal, the risks posed by toxicity, debris, and far field blast overpressure to the collective members of the public would continue to be calculated separately for each hazard. The final E_c totals for these hazards would then be aggregated and rounded (as discussed more fully below) so that they are expressed using only one significant digit.

Aggregating the risks posed by toxicity, debris, and far field blast overpressure should not present the problems regarding conservatism and normalizing across hazards that the original rulemaking discussed. This is because the E_c calculations for toxicity, debris, and far field blast overpressure only count the injuries that qualify as Level 3 or higher on the Abbreviated Injury Scale (AIS) of the Association for the Advancement of Automotive Medicine.[43] The AIS is an anatomical scoring system that provides a means of ranking the severity of an injury and is widely used by emergency medical personnel. Within the AIS system, injuries are ranked on a scale of 1 to 6, with Level 1 being a minor injury, Level 2 moderate, Level 3 serious, Level 4 severe, Level 5 critical, and Level 6 a non-survivable injury. Even though toxicity, debris, and far field blast overpressure may cause injuries in different ways, the meaning of the E_c results for these three hazards fundamentally do not differ. This is because the E_c total for each hazard determines how many injuries that are AIS Level 3 or higher a particular hazard would cause.

In its original rulemaking, the FAA treated conservatisms in calculations as a reason not to assess the risk of a combination of hazards.[44] The FAA was concerned that aggregation of the risks posed by toxicity, debris, and blast overpressure could be problematic because assumptions that are unduly conservative for one hazard may not be unduly conservative for calculating the E_c of another hazard. For example, when assessing the risks posed by far field blast overpressure, the conservative approach, in the absence of data detailing true locations, would be to assume all the population was located inside buildings and thus exposed to the danger of flying glass. When assessing the risk posed by a release of toxic substances, on the other hand, the conservative approach would be to assume that at least a portion of the exposed population was outdoors, thus increasing the likelihood of harm from the release.[45]

This concern may be allayed by the use of realistic assumptions, and by recognizing that the use of AIS Level 3 provides a basis for normalizing across all three hazards. Using realistic assumptions,[46] as well as the AIS framework discussed above, a license applicant may account for a person's location at the time of the launch or reentry and determine the extent of possible injuries that person could sustain as a result of the operation. Regardless of which hazard caused injuries to the person, that person would have to be injured at AIS Level 3 or higher in order for the injury to be considered serious for E_c analysis purposes. Because the AIS analysis used in E_c calculations looks at the severity of an injury and not how an injury is caused, the FAA does not anticipate problems normalizing E_c calculations in order to aggregate the serious injuries that could be caused by debris, toxic release, and far field blast overpressure.

Even if an applicant based its hazard-specific E_c calculations on conservative assumptions, the error from aggregating those assumptions would be minimal. This is because "[c]onditions that are conducive to driving up the risk associated with one hazard usually make another hazard less significant."[47] For example, the 2012 SpaceX launch had a debris E_c ranging from 98×10^{-6} to 121×10^{-6}, a toxicity E_c that was less than 10×10^{-6}, and a far field blast overpressure E_c of essentially 0. If these numbers were added together, any uncertainty caused by the addition would not have a significant effect on the resulting total because most of that total E_c was caused by a single hazard (debris) that was calculated using a single set of assumptions. In any case, as discussed above, the E_c for all three hazards is calculated using the same AIS Level 3 standard thus allowing a launch operator to focus on the severity of an injury instead of how an injury is caused. This normalizes calculations across all the hazards and allows the serious injuries caused by the hazards to be aggregated regardless of the assumptions that underlie the estimates of those injuries.

[38] NASA and the FAA employ different definitions of the public. Under FAA definitions, persons on Kennedy Space Center merely to view the launch without a mission role would qualify as members of the public and be part of a risk analysis.

[39] *See* Aggregate Data

[40] *See* RTI International, *Titan IV B–30 Downrange Risks.* A copy of this document may be found in the docket.

[41] The elevated risks associated with those Titan launches were deemed acceptable by the U.S. Air Force based on rules that allowed a Range Commander to accept collective risks from launch involving "national need" that exceed the normal risk criteria. *See* Common Risk Criteria Standards for National Test Ranges (RCC) 321–07, § 1.4(c) (2007).

[42] 77 FR at 24556

[43] *See Launch SNPRM,* 67 FR at 49465 (explaining how E_c is calculated).

[44] *Id.* at 49462.

[45] *Id.* at 49462.

[46] E_c calculations that are based on realistic assumptions will result in lower E_c totals than E_c calculations that are based on conservative assumptions. As such, it would behoove license applicants to use realistic rather than conservative E_c assumptions in their calculations.

[47] *See Launch SNPRM,* 67 FR at 49461.

C. Use of One Significant Digit for Launch and Reentry E_c Limits

Proposed sections 417.107(b)(1), 431.35(b)(1) and 435.35 would express the proposed risk limit as one significant digit, as an E_c limit of 1×10^{-4}. In selecting a limit under which to set the aggregated risk posed to the collective members of the public by toxicity, debris, and far field blast overpressure, the FAA considered the 100×10^{-6} E_c limit that is now being used by the U.S. Air Force. To date, the FAA has employed two significant digits. In exploring whether it had a basis to employ three significant digits, the FAA had to explore the advisability of employing more than one in the first place. Due to the uncertainties associated with E_c calculations, which are discussed more fully below, the FAA proposes to employ one significant digit.

Significant digits are used to express a measure of mathematical certainty. Thus, trailing zeroes are significant only if they are used to express a measure of precision. For example, assume a person has a height of 168 centimeters, and this person wants to express his height as 168.000 centimeters. The three trailing zeroes in 168.000 would be significant only if the person had his height measured by a device capable of measuring that height to the thousandth place. In that instance, the zeroes would convey that the device determined that this person's height, as measured to the thousandth place, is exactly 168.000 centimeters. Otherwise, if the three trailing zeroes are not being used to convey this message, they are not significant and should be removed so as to not convey a false measure of precision.

An E_c limit of 100×10^{-6} would be 0.000100 if expressed as a decimal. There are two trailing zeroes in this number (0.000*100*), implying that the E_c is measured to the millionth place of precision. However, due to the modeling uncertainties associated with one of the variables in calculating E_c, namely, the probability of failure discussed below, the FAA proposes to use only one significant digit as the final expression of E_c results.

As discussed above, the purpose of significant digits is to identify the number of digits after the decimal that reflect the level of precision in a numerical result. The number of digits in a properly prepared and formally formatted numerical result indicates the level of precision of that result; more digits indicate higher level of precision, fewer digits indicate lower level of precision. The last significant digit reported indicates that the result comes from empirical data to within +/− 1 of the reported number. That is, if the last significant digit reported is a 4, then the reader can confidently assume that the value is closer to 4, and not 3 or 5. For complex mathematical calculations, the numerical input (or intermediate calculation) with the fewest significant digits establishes the number of significant digits that can be reported legitimately in the final numerical result (where legitimate means that the certainty of the final result is properly reflected.) When using scientific notation to report a numerical result, every digit reported is considered significant. For example, the number 30×10^{-6} is not the same as 3×10^{-5} in the sense that the first number has 2 significant digits and the second has only 1 significant digit.

Examining how many significant digits should be used to express E_c limits, we note that there are two types of uncertainty associated with calculating E_c: Aleatory and epistemic uncertainty. Aleatory uncertainty is the randomness in the occurrence and consequences of an accident, and epistemic uncertainty represents the uncertainty in the ability of the model to compute the true point value of risk.

Aleatory uncertainty is the result of inherently random processes: the uncontrollable variability of real events even under tightly controlled conditions. Aleatory uncertainty is due to the randomness inherent in the occurrence and consequences of an accident. For risk analysis, improved modeling cannot reduce aleatory uncertainty. A key example of aleatory uncertainty arises out of the prevailing weather conditions for a launch risk analysis. The true E_c is dependent upon the prevailing weather conditions during launch, and no amount of analysis will reduce the variability associated with weather conditions. The uncertainty in the true E_c due to weather conditions is substantial for a typical baseline launch risk analysis that represents the weather conditions in a given month based upon historical data, and assumes that a launch is equally likely under any of those weather conditions. The uncertainty in the true E_c for a day of launch risk analysis is much smaller, but the weather input data will still produce some variability in the E_c due to errors and variability in the weather measurements and forecasts. There are numerous other sources of aleatory uncertainty in an E_c analysis, and there are different ways these aleatory uncertainties can be accounted for. These aleatory uncertainties may include: the natural variations in the normal and malfunction trajectories, population and sheltering characteristics (e.g. between day and night), the velocities induced during break-up, the aerodynamic properties of the debris, and the yield from an explosive impact. All of these aleatory uncertainties directly influence the predicted consequence of a failure, and thus the E_c estimate.

Epistemic uncertainty is the result of the uncertainty in some of the model input parameters, the potential influence of unknowns and the approximate nature of the model itself. The model and its input parameters require data or knowledge that are not known perfectly and can only be estimated, creating model inadequacies that produce systemic uncertainty, referred to as bias, in determining the correct answer. The probability of failure is typically the greatest source of epistemic uncertainty for a launch or reentry risk analysis. The probability of failure uncertainty is so significant because: (1) It is typically the dominant source of uncertainty in the overall E_c associated with a launch or reentry of a new vehicle, (2) the probability of a failure has the most direct influence on public risks posed by a launch or reentry (especially during those phases of flight where public risk is the greatest), and (3) it is present regardless of the hazard involved (i.e. debris, toxics, or far field blast overpressure). Given the fact that even a structural fatigue test result is best modeled using a probability distribution, the probability of failure for a system as complex as a launch or reentry vehicle is often shrouded in substantial uncertainty, particularly for a new vehicle.

The FAA has examined multiple analyses performed to quantify the uncertainty in launch and reentry risk analyses for various circumstances, including those where the risks are predominantly in the launch area, where a flight safety system is used, and those due to down range over-flight of large land masses where a flight safety system would not likely be activated. The uncertainty assessments examined the uncertainty in the E_c results due to all sources, epistemic and aleatory, and the results of these sensitivity studies quantified the uncertainties related to both the probability of the launch risk and the consequence of the launch risk. The results of these uncertainty analyses show that, even for relatively mature vehicles, the inability to determine the true probability of failure generally creates too much uncertainty to justify more than one significant digit in the E_c results for launch or reentry.

Furthermore, the results demonstrate that there is generally enough aleatory uncertainty alone to make a second significant digit in the reported E_c illegitimate, even if there was no uncertainty with all the critical input data such as the probability of failure and debris catalogs. Thus, considering both the aleatory uncertainty and the epistemic uncertainty in launch and reentry risk analyses, the calculation of a most likely E_c must be reported with caution so as not to overstate the confidence levels associated with the result. The magnitude of uncertainty in E_c results computed with current state-of-the-art models demonstrates that no more than one significant digit should be used. Any more than one significant digit in the E_c result implies greater certainty in that digit, and greater confidence in that digit by the safety community, than can be justified.

The FAA notes that there could be instances in which the use of more than one significant digit is justified. However, at this time, the FAA does not have sufficient data to set a generally-applicable regulatory E_c limit using more than one significant digit. Accordingly, at this time, the FAA proposes an E_c limit on collective risk to the public that uses only one significant digit. Once more data become available, the FAA may revisit this issue in a future rulemaking.

The way that the FAA's one-significant-digit proposal would work in practice is that the E_c for each hazard would be calculated as it is now calculated. Those E_c values could then be added together, any known double counting would be corrected, and the result would be rounded to the closest significant digit. For example, take a launch that has the following E_cs: a debris E_c of 9×10^{-5}, a toxicity E_c of 9×10^{-6}, and a far-field blast overpressure E_c of 5×10^{-5}. When the E_cs for these three hazards are added together, the total is 149×10^{-6}, or equivalently 1.49×10^{-4}, at least until the overall level of certainty is accounted for. This number would then be rounded so that it is expressed using only one significant digit. Thus, 1.49 would be rounded to 1, and the resulting total E_c would be 1×10^{-4}. Consequently, the hypothetical launch discussed here would comply with of the 1×10^{-4} aggregate E_c standard that the FAA proposes to apply to the collective risk associated with ELV launches.

Conversely, if the E_c results for the hazards associated with an ELV launch were such that they totaled to 151×10^{-6}, this total would be rounded to an E_c of 2×10^{-4} in order to be expressed using one significant digit. In that scenario, the launch would violate the proposed 1×10^{-4} aggregate E_c standard for risk to the collective members of the public.

The FAA notes that its proposed aggregate E_c limit of 1×10^{-4} is more stringent than the total E_c of some of the safely-conducted NASA and U.S. Air Force launches that have been discussed above. As such, the FAA invites comments as to whether the aggregate E_c limit should be set at a level that is less stringent than 1×10^{-4} and what the reasons for such an increase would be. Also, if the E_c limit is set at a level that is less stringent than 1×10^{-4}, should additional restrictions be added to the regulations in order to compensate for the additional public risk caused by the higher E_c limit?

D. Splitting Up Launch and Reentry E_c for Reentry Vehicles

The FAA also proposes to separate the E_c limits for launch and reentry of all reentry vehicles rather than applying a single risk limit, as it does now, to both phases of a mission. The FAA's risk limits for reentry can be found in §§ 431.35(b)(1) (for RLVs) and 435.35 (for all other reentry vehicles). Both sections impose the same E_c limits because § 435.35 requires compliance with the RLV E_c limitations of § 431.35.

The collective risk limit imposed on reentry-vehicle operations applies to launch and reentry combined, which means that the debris risk from a launch added to the debris risk from the ensuing reentry may not exceed an E_c of 30×10^{-6}. The regulations do not apply separate risk limits to launch and reentry conducted as a single mission because at the time of the original rulemaking, the FAA wanted to ensure that the accumulated mission risk did not exceed an E_c of 30×10^{-6}.[48] The FAA reasoned that setting RLV launch and reentry under separate E_c limits could have resulted in a total mission E_c of 60×10^{-6} (a launch E_c of 30×10^{-6} + a reentry E_c of 30×10^{-6}). However, the FAA acknowledged there could be circumstances where it would be appropriate to separate launch from reentry risk, such as where different operators were involved and could be apportioned allowable risk thresholds, or where intervening events or time made reentry risks sufficiently independent of launch risks as to warrant separate consideration.[49]

Assigning a single risk limit to launch and reentry combined is neither necessary nor justifiable. Under § 417.107(b), a mission that does not include a reentry (which would usually be conducted with an ELV-only vehicle) may be initiated with a debris E_c to the collective members of the public of 30×10^{-6}. However, if a mission that included a reentry was to be launched in the same manner, carrying a reentry vehicle as a payload, that mission would be unable to commence a reentry, as its 30×10^{-6} launch E_c would "use up" all of the E_c allotted for the combined launch and reentry mission. Thus, in order to be able to initiate a reentry, a reentry vehicle is required to be launched under a more stringent E_c standard than other payloads. Stated another way, under current regulations, a launch without a reentry is subject to a less stringent E_c limit than a launch that includes a reentry because the reentry-less launch does not have to budget any of the allowable E_c toward reentry risk.

Parts 431 and 435 currently combine launch and reentry under a single E_c standard because when the FAA promulgated the regulations governing reentry, proposed reentry vehicles were primarily envisioned as reusable launch vehicles, which are both a launch and reentry vehicle. As a result, the FAA did not have experience with missions in which launch and reentry functioned independently of each other. As it turned out, the first reentry vehicle the FAA ultimately licensed was not an RLV but a capsule, which is only a reentry vehicle. The capsule's reentry highlighted that the decision-making behind the reentry was sufficiently independent to require separate consideration and thus its own risk assessment.

This is also shown by the FAA's waiver analysis of SpaceX's 2010 and 2012 missions, which noted that after launch, SpaceX's vehicle would perform a health check, and that the results of this health check would determine whether the vehicle would initiate a reentry.[50] For both missions, the FAA found the health check made the collective risk associated with launch and reentry "sufficiently independent to warrant separate consideration . . ."[51] Both the 2010 and 2012 SpaceX waivers examined the launch of each mission under a separate 30×10^{-6} E_c limit than the reentry for that mission.

SpaceX is not alone in performing independent checks. Section 431.43(e)(1) requires all operators to conduct a health check before commencing a reentry. This requirement is in § 431.43(e)(1), which

[48] Reentry Rule, 64 FR at 19635.

[49] *Id.*

[50] *See* 75 FR at 75621 and 77 FR at 24558.

[51] 75 FR at 75621.

states that an RLV operator must "[m]onitor and verify the status of safety-critical systems before enabling reentry flight," shows that launch and reentry are sufficiently independent to warrant separate consideration.

A number of other factors support setting launch and reentry risk separately. As an initial matter, reentry is independent from launch because the two are separate events. A launch may not always be successful, and a single risk limit that encompasses both launch and reentry makes reentry risk calculations unnecessarily dependent on the probability of failure associated with launch. Separating launch and reentry risk criteria is the preferred approach because under a separate reentry risk limit, the reentry would have to meet the risk criteria assuming that the launch had succeeded.

In addition, a reentry trajectory does not have to be finalized, at the earliest, until launch concludes. For example, a reentry vehicle could have multiple viable reentry trajectories, and the operator of that vehicle would not have to pick one of those trajectories until the vehicle was ready to commence reentry after launch had already taken place. In that scenario, it would not make sense to limit the operator's reentry decision by an event that had already taken place (the launch), which the operator could not affect after it had occurred.

In addition, launch and reentry could be handled by different entities. For example, one company (Company 1) could launch a reentry vehicle operated by another company (Company 2). Just like in the previous scenario, it would not make sense to limit Company 2's decisions regarding its reentry based on a launch that had already taken place.

We note that launch and reentry are also distinct because they generally pose risks to distinct populations, and the tolerable level of collective risk is logically correlated with the nature and size of the exposed population. A general difference between the nature of the populations exposed to launch and reentry risks is that launches generally expose fewer people that are near the launch site or under the launch trajectory, but reentry risks are often widely distributed over populations that dwell within the latitudes bounded by the orbital inclination.

As discussed above, the U.S. Air Force and NASA, both of which have significant operational experience administering collective risk limits, recently set launch and reentry under separate E_c limits of 100×10^{-6}. This decision by the U.S. Air Force and NASA also supports the FAA's proposal to assign separate E_c limits to launch and reentry. The specific E_c limits that the FAA proposes are discussed in the next section.

We note, however, that the proposed rule would assign separate the E_c limits to launch and reentry only for reentry from orbit. The FAA proposes to leave unchanged the requirement that suborbital launches and reentries are subject to a single launch E_c limit that encompasses the entire operation from launch through final impact. The FAA invites comments on whether the E_c limit for the launch and reentry of suborbital reentry-vehicle operations should be separated in the same manner as the E_c limit for reentries from orbit.

E. Including Toxicity in the Reentry E_c Limits of Parts 431 and 435 and Harmonizing That Part With Part 417

Sections 431.35 and 435.35 govern the E_c associated with the operation of reentry vehicles. The FAA proposes to change the structure of these regulations as follows. As discussed above, the E_c associated with a licensed launch would be regulated separately from reentry. For launch, the FAA proposes to harmonize the E_c launch requirements for ELVs and reentry vehicles by setting the E_c launch limit for reentry vehicles under the same aggregate 1×10^{-4} limit that this proposal would apply to ELV launches under part 417. This launch limit would regulate the aggregate risk associated with toxicity, impacting inert and explosive debris, and far field blast overpressure. In addition, just like the aggregate E_c launch limit that governs ELVs under part 417, the aggregate E_c launch limit that governs reentry vehicles under parts 431 and 435 would be expressed using only one significant digit. Using this approach, the E_c associated with a licensed launch would be regulated the same way regardless of what vehicle or payload was used in the launch.

With regard to reentry, §§ 431.35 and 435.35 currently account only for the risk posed by debris to the collective members of the public. This proposed rule would clarify that, just like launch, the debris regulations for reentry encompass both impacting inert and explosive debris. The FAA is also proposing to require a launch operator to also account for the risks of toxic release. While there have not been past instances of a reentry where toxicity risk was above a minimal level, the FAA is concerned about missions that are being planned for the near future involving a reentry vehicle touching down on land during a reentry. These types of missions may require a reentry vehicle to carry a substantial load of fuel during reentry, which would significantly increase the risk of toxic release posed by the reentry. For example, the FAA performed a sensitivity study on the release of a reentry vehicle's propellants during reentry and found that a ground release of the propellants is the worst case scenario for a toxic release, as opposed to venting the propellant during reentry or the vehicle exploding during reentry and releasing all of its propellant into the atmosphere at a high altitude. In other words, the study results demonstrated an inversely proportional relationship between altitude release and the casualty area, where the higher the altitude release, the lower the casualty area. The two methods of dispersion considered for a ground release were a "Hot Spill" method, which is where a propellant tank explodes on impact and releases a toxic vapor cloud and a "Pool Evaporation" method, which is where a propellant tank ruptures on impact and leaks out the propellant, forming a liquid pool. Because of the possible risk posed by these types of missions and methods of toxic dispersion, the FAA is proposing to add toxic releases to the E_c limit governing reentry. No current reentry vehicles have the capability of reentering to land, so the FAA seeks comment on the necessity of this proposal.

The U.S. Air Force and NASA have a total reentry E_c limited to a 100×10^{-6} limit. However, as discussed above, E_c calculations currently contain a level of uncertainty that generally prevents them from being accurately expressed using more than one significant digit. Accordingly, the FAA proposes to set the reentry E_c limit for collective risk to 1×10^{-4} expressed using a single significant digit. This reentry limit would govern the aggregated risk posed by vehicle debris and toxic release.

F. Hazard Areas

The FAA also proposes to clarify the existing limits on probability of impact for ships and aircraft. This proposed clarification would not constitute a change from what is currently required. Specifically, § 417.107(b)(3) and (4) currently require the launch operator of an ELV to implement and establish ship and aircraft hazard areas that provide an equivalent level of safety to that provided by ship and aircraft hazard areas implemented for launch from a federal launch range. This provision memorializes the level of safety that was provided by hazard areas for launches from a federal launch range in 2006,

when the FAA issued § 417.107(b)(3).[52] Because the current provision does not specify a specific federal launch range, a launch operator could arguably pick an equivalent hazard-area level of safety from amongst the federal launch ranges.

While each federal launch range has its own safety criteria for hazard areas, the federal launch range with the least burdensome limit for hazard areas imposes a probability of impact (P_i) limit of 1×10^{-6} for aircraft hazard areas and a P_i limit of 1×10^{-5} for water-borne-vessel hazard areas.[53] Currently, § 417.107(b)(3) and (4) permits a launch operator to set a hazard-area level of safety that is equivalent to the one used by federal launch ranges with the least burdensome hazard area limit. Accordingly, the FAA proposes to make transparent the criteria for establishing hazard areas, which are that an aircraft P_i, may not exceed 1×10^{-6} and a water-borne vessel P_i may not exceed 1×10^{-5}.

The FAA's proposal would define P_i as probability of impact with debris capable of causing a casualty. This is because the federal launch ranges defined P_i in this manner in 2006. Specifically, an $1E^{-6}$ probability of impact was the criterion used by the Eastern Range in 2002 [54] and that same criterion was used in 2007.[55] The 2007 version of the RCC 321–07 made clear that the ship and aircraft protection criteria in use by U.S. ranges are "based on the probability of impact with 'debris capable of producing a casualty' for ships and aircraft".[56] This is an important clarification because some debris fragments are too small to threaten the safety of people onboard aircraft or ships.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

In conducting these analyses, the FAA has determined that this proposed rule: (1) Has net benefits that justify the minimum costs; (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866; (3) is not "significant" as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on state, local, or tribal governments, or other private sectors by exceeding the threshold identified above.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. These analyses are summarized below.

Parties Potentially Affected by This Rulemaking

- Satellite and RLV owners
- License applicants for launches and reentries
- Commercial space transportation suppliers
- The Federal Aviation Administration and the general public

Principal Assumptions and Sources of Information

- *Benefit-Cost Analysis for the collective risk limits during launches and reentries* (GRA study 2013 by GRA, Incorporated [57]).
- As discussed below, the principal assumption underlying the proposed rule is that the acceptable public risk of launch or reentry mission is an expected casualty E_c value of 1×10^{-4} or less.
- FAA Office of Commercial Space Transportation forecast of suborbital launches using subject experts' judgment.
- FAA Office of Commercial Space Transportation estimation of the commercial space industry hours related to waiver applications.
- All monetary values are expressed in 2012 dollars.
- Projected impacts for a 10-year period from 2013 to 2022.

Cost-Benefit Analysis

Under current regulations, the FAA prohibits the expected casualty (E_c) for each physically distinct source of risk (impacting inert and explosive debris, toxic release and far field blast overpressure) from exceeding 30×10^{-6} or an expected average number of 0.00003 casualties per launch. The aggregate E_c equals the sum of these risks, i.e., $(30 \times 10^{-6}) + (30 \times 10^{-6}) + (30 \times 10^{-6})$, for a total of 90×10^{-6}. However, launches currently are not subject to this single aggregate E_c limit. If there is a reentry using an RLV or other reentry vehicle, an additional regulatory provision becomes applicable, which prohibits the combined E_c of the launch and reentry from exceeding 30×10^{-6} for impacting debris.[58]

Under this proposal, the FAA would separate its expected casualties (E_c) for launches and reentries. The proposed rule would adopt an aggregate E_c requirement for a launch not to exceed 1×10^{-4} posed by the following hazards: (1) Impacting inert and explosive debris, (2) toxic release, and (3) far field blast overpressure. The FAA also proposes a separate aggregate E_c requirement for a reentry not to exceed 1×10^{-4} posed by the hazards of debris and toxic release.

An E_c value of 1×10^{-4} mathematically equals 100×10^{-6}, which is the E_c value currently used on

[52] As of the date of this writing, December 2013, federal launch ranges have not changed the pertinent standards from what they used in 2006.

[53] *Common Risk Criteria Stondards for Notional Test Ronges (RCC) 321–07 (2007).*

[54] *Common Risk Criterio Stondards for Notionol Test Ronges* (RCC) 321–02 Supplement at 3 (2002).

[55] *Common Risk Criterio Stondords for Notional Test Ranges* (RCC) 321–07 at 5–49.

[56] *See* pages 3–3 and 3–4 of Range Commanders Council Risk Committee of the Range Safety Group, *Common Risk Criteria for Notionol Test Ronges,* RCC 321–07, White Sands Missile Range, New Mexico, 2007.

[57] GRA study can be found in the docket.

[58] This limit is specified in 14 CFR 431.35, which applies only to reusable launch vehicles. However, 14 CFR 435.35 incorporates and applies 14 CFR 431.35 to all reentry vehicles.

federal ranges for civil and military launch and reentry missions. However, because the proposed aggregate E_c limit would use only one significant digit in the format of 1×10^{-4}, this proposal would, in effect, allow a commercial launch or reentry with an aggregate E_c limit up to 149×10^{-6} under current calculations to proceed without requiring the applicant to seek an FAA waiver. This is because 149×10^{-6} rounds down to 1×10^{-4} when expressed using only one significant digit.

Based on analysis of the historical data, the FAA found the proposed criteria are supported by the commercial mission experiences and post-mission safety data available since 1989. The FAA's launch data indicated during this time there were 45 suborbital launches and 193 orbital launches, for a total of 238 launches.[59] At least four of these launches used an E_c that was allowed to go above the existing 30×10^{-6} E_c limits. However, none of these launches resulted in any casualties or other adverse impacts on public safety.

As discussed in the preamble above, the FAA believes managing the precision of rounding digits below and above the E_c limit is imprecise for administering launch or re-entry licenses given the uncertainties associated with the probability of failure variable that goes into an E_c calculation. By using only one significant digit, the proposed E_c limit for launch would become slightly less restrictive than the three existing launch E_c limits combined (i.e., 90×10^{-6}). The regulatory-compliance difference between 90×10^{-6} and 149×10^{-6} falls under an accepted safety margin because the level of imprecision associated with E_c calculations means that there is no substantive difference between these two E_c figures. However, changing the regulations to use only one significant digit would improve efficiency by providing some flexibility to the government and license applicants in the launch approval process. In addition, using a single E_c limit that applies to an aggregate risk in place of three separate hazard-specific E_c limitations would further increase efficiency. As a result, the proposed rule would maintain a level of safety for commercial launches commensurate with the current level of safety associated with civil and military counterparts, but would be cost relieving by eliminating some waiver processes necessary under the current regulations as discussed below.

The proposed criteria would also separately address the public risk limits of toxic release and inert and explosive debris risks for reentry operations by establishing public safety requirements similar to the ones used at the federal launch ranges. Based on current practices of administering reentry licenses, the FAA found it was unrealistic and unnecessary to administer reentry licenses with a strict E_c limit of 30×10^{-6} for the combination of launch and reentry debris hazards. Aggregating E_c limits of toxic release and debris risks, the proposed E_c limit for reentry would be commensurate with the current safety requirements applied to civil and military reentries, and more conservative than past federal launch ranges' practices that gave waivers to allow non-commercial reentry missions to proceed with E_c risks on the order of 1×10^{-3}.

The proposed rule would merely revise reentry E_c limits of toxic release and debris risks to be close to the current reentry licensing practice, on which we assess the current economic baseline of the revised E_c limits. The FAA expects that the nominal increase in the debris E_c limit on reentry proposed in this rule will impose no or minimal societal costs. This is because, while the FAA has not been asked to grant a waiver in which E_c for reentry would exceed 30×10^{-6}, the FAA has historically issued a number of waivers to commercial launches that allowed those launches to exceed the regulatory E_c limits as long as those launches did not exceed the 100×10^{-6} E_c limits imposed by the federal ranges. The FAA has also issued waivers to two commercial reentries that allowed the E_c for those reentries to be considered separately from the E_c for launch. While the FAA, as part of its waiver process, has not yet had to consider whether a reentry operation should be issued a waiver to exceed the 30×10^{-6} E_c limit on reentry, the FAA expects that its launch waiver analysis would apply equally to reentry operations. Consequently, the FAA anticipates that many of the reentry operations that would be affected by this rule may be eligible for an FAA waiver in the absence of this rule. The only impact that this rule will have on those operations is to eliminate the need to seek an FAA waiver. Accordingly, any change to risk on reentry made by this proposed rule would be nominal at most.

With regard to toxic release risks, by applying the revised E_c value of 1×10^{-4} to toxic release risks during a reentry operation, the proposed rule would provide an incremental margin of safety to the public that does not exist under the current rule. However, from a technical perspective, toxic release risks for reentry vehicles are expected to remain a minor factor in E_c calculations, because the toxic release requirement would affect only those vehicles that intend to return to land rather than the ocean. The propellant load for a reentering reentry vehicle will generally be minimal because most of the propellant will have been used during the mission. The FAA believes that this portion of proposed criteria pertaining to reentries of the next generation of vehicles would not raise costs to the commercial space transportation industry. Therefore, the FAA believes this proposed requirement has minimal costs and positive benefits. The FAA requests comments with regard to the minimal cost determination.

The proposed changes in the risk limits would apply to all three hazards combined rather than to each individual hazard. In addition, the proposed changes would theoretically permit launches or reentries without seeking waivers as long as the aggregated risks would not exceed 0.000149 expected casualties per launch or re-entry mission (i.e., 149×10^{-6}). Both the commercial space transportation industry and the government would have savings attributable to less paperwork by avoiding some waiver-application process expenses.

Based on historical records of requests and previous FAA-issued waivers from the current E_c limits, the FAA anticipates that an additional 38 waivers from the current E_c limits will be necessary from 2013 to 2022 in the absence of this rule.[60] If this rule is finalized as proposed, the FAA expects that these 38 waivers will not be needed. Thus, this rule would result in savings for both the industry and the FAA, as the industry would not have to expend resources to request waivers and the FAA would not have to expend resources to evaluate waiver requests.

The industry cost ranges from $4,472 for 56 hours to $12,776 for 160 hours of aerospace engineering time to prepare and submit the necessary documentation to the FAA for approval.[61] Multiplying the forecasted

[59] AST/FAA launch data as of Feb 1, 2013, excluding 21 failed launches. This data can be found at *http://www.faa.gov/about/office_org/headquarters_offices/ast/launch_license.* See also Appendix A in GRA study, which can be found on the docket for this rule.

[60] GRA Study 2013, Table 5–7, by GRA Incorporated.

[61] Aerospace engineer wage rate ($79.85 per hour) was based on GRA Study, 2013, Appendix C, Table

Continued

38 waivers for the 10-year period by the lower and upper bound costs yields cost savings ranging from $169,936 to $485,488. The range estimates for the FAA's cost savings are based on the costs of FAA personnel time ranging from $4,530 for 58 hours to $14,841 for 190 hours[62] to process each waiver request. This range is related to the characteristics of the individual launch or reentry request. Multiplied by the forecasted 38 waivers granted, the total estimated savings of FAA personnel time to review requests and issue waivers range from $172,140 to $563,958. The resulting savings for both the industry and the FAA with an estimated mid-point would be approximately $695,754 ($456,699 present value at a 7% discount rate). The lower and the higher estimates are approximately $0.3 million and $1 million ($283,619 and $688,866 present value at a 7% discount rate), respectively.

The proposed rule may also result in cost-saving by reducing launch delays and mission scrubs. The FAA currently does not have sufficient data to quantify these savings, but believes the possible reduction of launch delays and mission scrubs may increase the overall capacity of the U.S. space transportation industry. Accordingly, the FAA seeks comments on cost-savings that could be generated by this proposed rule through reduced launch delays and mission scrubs.

In summary, the proposed rule would maintain safety levels for commercial space transportation commensurate with the current requirements applied to civil and military launches and re-entries. In addition, the proposed rule would result in net quantified benefits for both industry and government. The net benefit would be achieved by avoiding costs pertaining to applying and granting waivers with E_c limits between 90×10^{-6} and 149×10^{-6}. Further, related industries may also benefit by avoiding unnecessary mission delays and scrubs. The FAA requests comments with regard to this determination.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required.

The FAA expects many small entities would benefit from this proposed rule because the proposed revisions to the current rule are cost-relieving and do not cause any segment of industry to incur compliance costs. Therefore, the FAA certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments with regard to this certification and requests that supporting documentation be supplied.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that the rule would not impose obstacles to foreign commerce, as foreign exporters would not have to change their current export products to the United States.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $151 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f of NEPA and involves no extraordinary circumstances.

Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship

C–3. The FAA's Office of Commercial Space Transportation provided the estimation of the commercial space industry hours related to a waiver application.

[62] The FAA calculated this estimation of the agency's expenditure and hours related to processing a waiver application.

between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a "significant energy action" under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
3. Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects

14 CFR Part 417

Launch and reentry safety, Aviation safety, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

14 CFR Parts 431 and 435

Launch and reentry safety, Aviation safety, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter III of title 14, Code of Federal Regulations as follows:

PART 417—LAUNCH SAFETY

■ 1. The authority citation for part 417 continues to read as follows:

Authority: 51 U.S.C. 50901–50923.

■ 2. In § 417.107, revise paragraphs (b)(1), (b)(3), and (b)(4) to read as follows:

§ 417.107 Flight safety.

* * * * *

(b) * * *

(1) A launch operator may initiate the flight of a launch vehicle only if the total risk associated with the launch to all members of the public, excluding persons in water-borne vessels and aircraft, does not exceed an expected average number of 0.0001 casualties ($E_c \leq 1 \times 10^{-4}$). The total risk consists of risk posed by impacting inert and explosive debris, toxic release, and far field blast overpressure. The FAA will determine whether to approve public risk due to any other hazard associated with the proposed flight of a launch vehicle on a case-by-case basis. The E_c criterion applies to each launch from lift-off through orbital insertion, including each planned impact, for an orbital launch, and through final impact for a suborbital launch.

* * * * *

(3) A launch operator must establish any water borne vessel hazard areas necessary to ensure the probability of impact (P_i) with debris capable of causing a casualty for water borne vessels does not exceed 0.00001 (1×10^{-5}).

(4) A launch operator must establish any aircraft hazard areas necessary to ensure the probability of impact (P_i) with debris capable of causing a casualty for aircraft does not exceed 0.000001 (1×10^{-6}).

* * * * *

PART 431— LAUNCH AND REENTRY OF A REUSABLE LAUNCH VEHICLE (RLV)

■ 4. The authority citation for part 431 continues to read as follows:

Authority: 51 U.S.C. 50901–50923.

■ 5. In § 431.35, revise paragraph (b)(1) to read as follows:

§ 431.35 Acceptable reusable launch vehicle risk.

* * * * *

(b) * * *

(1) To obtain safety approval, an applicant must demonstrate the following for public risk:

(i) The risk to the collective members of the public from the proposed launch meets the public risk criteria of § 417.107(b)(1) of this chapter;

(ii) The risk level to the collective members of the public, excluding persons in water borne vessels and aircraft, from each proposed reentry

does not exceed an expected average number of 0.0001 casualties (E_c criterion of 1×10^{-4}) from impacting inert and explosive debris and toxic release associated with the reentry; and

(iii) The risk level to an individual does not exceed .000001 probability of casualty per mission (individual risk of $E_c \leq 1 \times 10^{-6}$).

* * * * *

PART 435—REENTRY OF A REENTRY VEHICLE OTHER THAN A REUSABLE LAUNCH VEHICLE (RLV)

■ 6. The authority citation for part 435 continues to read as follows:

Authority: 51 U.S.C. 50901–50923.

■ 7. Revise § 435.35 to read as follows:

§ 435.35 Acceptable reusable launch vehicle risk.

To obtain safety approval for reentry, an applicant must demonstrate the following for public risk:

(a) The risk to the collective members of the public from the proposed launch meets the public risk criteria of § 417.107(b)(1) of this chapter;

(b) The risk level to the collective members of the public, excluding persons in water borne vessels and aircraft, from each proposed reentry does not exceed an expected average number of 0.0001 casualties (E_c criterion of 1×10^{-4}) from impacting inert and explosive debris and toxic release associated with the reentry; and

(c) The risk level to an individual does not exceed .000001 probability of casualty per mission (individual risk of $E_c \leq 1 \times 10^{-6}$).

Issued under authority provided by 49 U.S.C. 106(f) and 51 U.S.C. 50904–50905 in Washington, DC, on June 25, 2014.

George C. Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 2014–16928 Filed 7–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2014–0540]

RIN 1625–AA08, AA00

Special Local Regulations for Marine Events and Safety Zone, Patapsco River; Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary regulations in certain waters of the Patapsco River. This action is necessary to provide for the safety of life on navigable waters before, during, and after the "Baltimore Air Show," which consists of aerial practices, performance demonstrations and air shows. The event, scheduled as part of the Star-Spangled 200 activities at Baltimore, Maryland, will be held over certain waters of the Patapsco River from September 11, 2014, through September 14, 2014. This action will restrict vessel traffic in portions of the Patapsco River during the event.

DATES: Comments and related material must be received by the Coast Guard on or before August 20, 2014. The Coast Guard anticipates that this proposed rule will be effective from September 11, 2014 through September 14, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of proposed rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number [USCG–2014–0540] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2014–0138) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

This rule involves an air show that will take place over the Patapsco River in Baltimore, Maryland on September 13, 2014 and September 14, 2014 and will attract thousands of spectators on the Patapsco River. This rule also involves a designated on-water spectator area associated with the air show. The current regulations under 33 CFR 100 address safety for reoccurring marine events. This marine event does not appear in the current regulations; however, as it is a regulation to provide effective control over regattas and marine parades on the navigable waters of the United States so as to insure safety of life in the regatta or marine parade area, this marine event therefore needs to be temporarily added.

C. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233, and to establish safety zones: 33 U.S.C. 1231.

The purpose of the rule is to provide for the safety of participants, spectators, and transiting vessels from the potential hazards associated with an air show, such as aircraft accidents, dangerous projectiles, hazardous materials spills and falling debris. This rule is necessary to ensure safety of life on navigable waters of the United States before, during and after the scheduled Baltimore Air Show event.

D. Discussion of Proposed Rule

The Star Spangled 200, Inc. is sponsoring the "Baltimore Air Show" on September 13, 2014 and September 14, 2014. The public event will consist of military and civilian aircraft performing low-flying, high-speed precision maneuvers and aerial stunts over specified waters of the Patapsco River and navigable channels in Baltimore Harbor. In addition to the air show dates, military and civilian aircraft performing in the air show will conduct practice and demonstration maneuvers and stunts over specified waters of the Patapsco River and navigable channels in Baltimore Harbor on September 11, 2014 and September 12, 2014. A large spectator fleet is anticipated for the event, as part of the Star Spangled 200 activities.

Through this regulation, the Coast Guard proposes to establish a temporary regulated area. The proposed regulated area will encompass all waters of the Patapsco River, within an area bounded by a line connecting position latitude 39°16′00″ N, longitude 076°36′30″ W; thence to latitude 39°16′00″ N, longitude 076°33′00″ W; thence to latitude 39°14′30″ N, longitude 076°33′00″ W; thence to latitude 39°14′30″ N, longitude 076°36′30″ W; thence to the point of origin, located between Port Covington and Seagirt Marine Terminal at Baltimore, MD. Within the regulated area is a designated spectator area for commercial passenger vessels. The spectator area includes all waters of the Patapsco River, located between the northern boundary of the regulated area described in paragraph (a)(1) of this section at latitude 39°16′00″ N, thence southerly to the northern boundary of the safety zone represented by a line connecting position latitude 39°15′44″ N, longitude 076°35′55″ W; to position latitude 39°15′19″ N, longitude 076°33′25″ W, located adjacent to the Fort McHenry National Monument and Historic Shrine at Baltimore, MD. This regulated area will be enforced from 10 a.m. to 6 p.m. each day from September 11, 2014 through September 14, 2014.

Through this regulation, the Coast Guard also proposes to establish a safety zone. The proposed safety zone encompasses the aerobatic show box, approximately 12,000 feet long and 3,000 feet wide, and is located within the regulated area. The temporary safety zone includes all waters of the Patapsco River, located within an area bounded by a line connecting position latitude 39°15′44″ N, longitude 076°35′56″ W; to latitude 39°15′19″ N, longitude 076°33′26″ W; thence to latitude 39°14′49″ N, longitude 076°33′35″ W; thence to latitude 39°15′15″ N, longitude 076°36′04″ W; thence to point of origin. Access to the safety zone will be restricted during the specified dates and times. Except for vessels authorized by the Captain of the Port or his designated representative, no person or vessel may enter or remain in the safety zone. U.S. Coast Guard vessels will be provided to enforce the safety zone. The Captain of the Port Baltimore will issue Broadcast Notices to Mariners to publicize the safety zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: The primary impact of these regulations will be on vessels wishing to transit the affected waterways during activities associated with the Baltimore Air Show beginning on September 11, 2014 and ending on September 14, 2014. Although these regulations prevent traffic from transiting a portion of the Patapsco River during this event, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within

that portion of the Patapsco River encompassed within the special local regulations from 10 a.m. to 6 p.m. each day on September 11, 2014, September 12, 2014, September 13, 2014, and September 14, 2014, and encompassed within the safety zone from 10 a.m. until 6 p.m. each day on September 11, 2014, September 12, 2014, September 13, 2014, and September 14, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This proposed rule involves special local regulations issued in conjunction with a regatta or marine parade. This proposed rule addresses safety concerns immediately outside the aerobatic show box, including the required patrols of law enforcement and safety vessels, establishment of emergency egress routes, and designated spectator areas. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

Additionally, this proposed rule involves establishing a temporary safety zone for an aerobatic show box during an air show. The air show is scheduled over navigable waters of the United States and may have potential for negative impact on the safety or other interest of waterway users and near shore activities in the event area. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary section, § 100.35–T05–0540 to read as follows:

§ 100.35–T05–0540 Special Local Regulations for Marine Events, Patapsco River; Baltimore, MD.

(a) *Regulated areas.* The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Regulated area.* The following location is a regulated area: All waters of the Patapsco River, within an area bounded by a line connecting position latitude 39°16′00″ N, longitude 076°36′30″ W; thence to latitude 39°16′00″ N, longitude 076°33′00″ W; thence to latitude 39°14′30″ N, longitude 076°33′00″ W; thence to latitude 39°14′30″ N, longitude 076°36′30″ W; thence to the point of origin, located between Port Covington and Seagirt Marine Terminal at Baltimore, MD.

(2) *Designated commercial passenger vessel spectator area.* The following location is a spectator area within the regulated area: All waters of the Patapsco River, located between the northern boundary of the regulated area described in paragraph (a)(1) of this section at latitude 39°16′00″ N, thence southerly to the northern boundary of the safety zone represented by a line connecting position latitude 39°15′44″ N, longitude 076°35′55″ W; to position latitude 39°15′19″ N, longitude 076°33′25″ W, located adjacent to the Fort McHenry National Monument and Historic Shrine at Baltimore, MD.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all persons and vessels participating in the Baltimore Air Show event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) *Spectator* means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) *Special local regulations.* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property. The Coast Guard may be assisted in the patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(3) All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz).

(4) Spectators are allowed inside the regulated area, but must remain outside the safety zone at all times. Only commercial passenger vessels will be permitted to anchor within the designated spectator area described in Paragraph (a)(2) of this section. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators shall comply with the directions given and must pass directly through the regulated area, outside the safety zone, at a safe speed and without loitering.

(5) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) *Enforcement period.* This section will be enforced from 10 a.m. to 6 p.m. on September 11, 2014, from 10 a.m. to 6 p.m. on September 12, 2014, from 10 a.m. to 6 p.m. on September 13, 2014, and from 10 a.m. to 6 p.m. on September 14, 2014.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 4. Add temporary § 165.T05–0540 to read as follows:

§ 165.T05–0540 Safety Zone, Patapsco River; Baltimore, MD.

(a) *Location.* The following area is a safety zone: All waters of the Patapsco River, within an area bounded by a line connecting position latitude 39°15′44″ N, longitude 076°35′56″ W; to latitude 39°15′19″ N, longitude 076°33′26″ W; thence to latitude 39°14′49″ N, longitude 076°33′35″ W; thence to latitude 39°15′15″ N, longitude 076°36′04″ W; thence to point of origin. All coordinates reference Datum NAD 1983.

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05.0540.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore or his designated representative.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representative can be contacted at telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(c) *Definitions.* As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) *Enforcement periods.* This section will be enforced from 10 a.m. to 6 p.m. on September 11, 2014, from 10 a.m. to 6 p.m. on September 12, 2014, from 10 a.m. to 6 p.m. on September 13, 2014, and from 10 a.m. to 6 p.m. on September 14, 2014.

Dated: July 7, 2014.

M. Dean,

Commander, U.S. Coast Guard, Acting Captain of the Port Baltimore.

[FR Doc. 2014–17103 Filed 7–18–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2013–0735; FRL–9913–61–OAR]

Approval of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Las Vegas Valley, Nevada; Redesignation to Attainment for PM_{10}

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Nevada state implementation plan that provides for the maintenance of the national ambient air quality standard for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM_{10}) in Las Vegas Valley for the next ten years and to approve the related motor vehicle emissions budgets. Based in part on the proposed approval of the PM_{10} maintenance plan, EPA is also proposing to approve the State of Nevada's request for redesignation of Las Vegas Valley to attainment for the PM_{10} standard. Consistent with the assumptions of the maintenance plan, EPA is proposing to approve revisions to certain local fugitive dust rules to ensure their continued applicability after redesignation of the area to attainment. Lastly, EPA is proposing to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

DATES: Comments must be received on or before August 20, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R09–OAR–2013–0735, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-Mail: oconnor.karina@epa.gov.*
3. *Mail or Deliver:* Karina OConnor (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or email. *http://www.regulations.gov* is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Documents in the docket for this action are generally available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (775) 434–8176, *oconnor.karina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean the EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

Table of Contents

I. Summary of Today's Proposed Action

Under Clean Air Act (CAA or "Act") section 110(k)(3), EPA is proposing to approve a submittal from the Nevada Division of Environmental Protection (NDEP) dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada* (August 2012) ("Las Vegas Valley PM_{10} Maintenance Plan") as a revision to the Nevada state implementation plan (SIP).

EPA finds that the Las Vegas Valley PM_{10} Maintenance Plan adequately demonstrates that the area will maintain the PM_{10} national ambient air quality standard (NAAQS or "standard") for 10 years beyond redesignation and includes sufficient contingency provisions to promptly correct any violation of the PM_{10} standard which occurs after redesignation and thereby meets the requirements for maintenance plans under CAA section 175A. EPA is also proposing to approve the motor vehicle emissions budgets (MVEBs) in the Las Vegas Valley PM_{10} Maintenance Plan because we find they meet the

applicable transportation conformity requirements under 40 CFR 93.118(e).

Under CAA section 107(d)(3)(D), EPA is also proposing to approve NDEP's request to redesignate the Las Vegas Valley PM_{10} nonattainment area from "nonattainment" to "attainment" for the PM_{10} standard. We are doing so based on our conclusion that the Las Vegas Valley has attained the PM_{10} standard; that the relevant portions of the Nevada SIP are fully approved; that the improvement in air quality is due to permanent and enforceable emissions reductions; that the State of Nevada has met all of the requirements applicable to the Las Vegas Valley PM_{10} nonattainment area with respect to section 110 and part D of the CAA; and, based on our proposed approval as described above, that the Las Vegas Valley PM_{10} Maintenance Plan meets the requirements for maintenance plans under section 175A of the CAA; and that, therefore, the State of Nevada has met the criteria for redesignation under CAA section 107(d)(3)(E) for the Las Vegas Valley PM_{10} nonattainment area.

Third, we are proposing to approve certain fugitive dust rules that Clark County has amended to ensure their continued applicability after the area is redesignated to attainment. NDEP submitted the amended rules on May 27, 2014 as a revision to the Nevada SIP.

Lastly, EPA is proposing to delete the area designation for Las Vegas Valley for the revoked NAAQS for total suspended particulate.

II. Background

On April 30, 1971 (36 FR 8186), pursuant to section 109 of the CAA, as amended in 1970, EPA promulgated the original NAAQS for the "criteria" pollutants, which included carbon monoxide, hydrocarbons, nitrogen dioxide, photochemical oxidant, sulfur dioxide, and particulate matter. The NAAQS are set at concentrations intended to protect public health and welfare. The original NAAQS for particulate matter was defined in terms of a reference method that called for measuring particulate matter up to a nominal size of 25 to 45 micrometers or microns. This fraction of total ambient particulate matter is referred to as "total suspended particulate" or TSP. Within nine months thereafter, each State was required under section 110 of the 1970 amended Act to adopt and submit to EPA a plan, referred to as a State Implementation Plan (SIP), which provides for the implementation, maintenance, and enforcement of each of the NAAQS within each State. The State of Nevada submitted its SIP on January 28, 1972, and EPA approved it later that year. *See* 37 FR 10842 (May 31, 1972).

Generally, SIPs were to provide for attainment of the NAAQS within three years after EPA approval of the plan. However, many areas of the country did not attain the NAAQS within the statutory period. In response, Congress amended the Act in 1977 to establish a new approach, based on area designations, for attaining the NAAQS. Under section 107(d) of the 1977 amended Act, States were to make recommendations for all areas within their borders as attainment, nonattainment, or unclassifiable for each of the NAAQS, including TSP, and EPA was to designate areas based on those recommendations, as modified if appropriate. For the State of Nevada, the State recommended, and EPA approved, the use of hydrographic areas as the geographic basis for designating air quality planning areas. *See* 67 FR 12474 (March 19, 2002). For the TSP NAAQS, EPA designated a number of areas in Nevada as "nonattainment," including Las Vegas Valley [1] (hydrographic area (HA) #212). *See* 43 FR 8962, at 9012 (March 3, 1978). The area designations for air quality planning purposes within the State of Nevada are codified at 40 CFR 81.329.

As amended in 1977, the CAA required States to revise their SIPs by January 1979 for all designated nonattainment areas. The various local entities and the State of Nevada responded by developing and submitting attainment plans for the TSP nonattainment areas, including Las Vegas Valley, and in 1981, EPA approved these plans on condition that the State submit, within a prescribed period of time, revisions to correct certain deficiencies. *See* 46 FR 21758 (April 14, 1981). In 1982, we found that the State had submitted the required revisions correcting the identified deficiencies, and we revoked the conditions placed on our approval of the TSP plans. *See* 47 FR 15790 (April 13, 1982).

In 1987, EPA revised the NAAQS for particulate matter, eliminating TSP as the indicator for the NAAQS and replacing it with the "PM_{10}" indicator. See 52 FR 24634 (July 1, 1987). PM_{10} refers to particles with an aerodynamic diameter less than or equal to a nominal 10 microns. At that time, EPA established two PM_{10} standards: A 24-hour standard of 150 micrograms per cubic meter ($\mu g/m^3$) and an annual standard of 50 $\mu g/m^3$.[2] We indicated in the preamble to our regulations implementing the then-new PM_{10} NAAQS that we would consider deletion of TSP area designations once EPA had reviewed and approved revised SIPs that include control strategies for the PM_{10} NAAQS and once EPA had promulgated PM_{10} increments for the prevention of significant deterioration (PSD) program. *See* 52 FR 24672, at 24682 (July 1, 1987).

Under our regulations for implementing the revised particulate matter NAAQS (i.e., the PM_{10} NAAQS), EPA did not designate areas as nonattainment, attainment, or unclassifiable but categorized areas into three groups, referred to as Group I, Group II, or Group III. Group I areas were those that had a probability of not attaining the PM_{10} NAAQS (based on existing TSP data) of at least 90%. Group I areas were required to submit SIP revisions that contain full PM_{10} control strategies including a demonstration of attainment. *See* 52 FR 24672, at 24681 (July 1, 1987). We identified the Las Vegas (HA #212) and Reno (HA #87, known as "Truckee Meadows") planning areas as Group I areas. *See* 52 FR 29383 (August 7, 1987) and 55 FR 45799 (October 31, 1990).

The CAA was significantly amended in 1990. Under the 1990 amended Act, Congress replaced the PM_{10} regulatory approach established by EPA in 1987 with the area designation concept and designated former "Group I" areas and certain other areas as nonattainment areas for PM_{10} by operation of law. *See* section 107(d)(4)(B) of the Act. As former "Group I" areas, the Las Vegas planning area was designated as nonattainment areas for PM_{10} by operation of law. *See* 56 FR 11101 (March 15, 1991).

Las Vegas Valley was initially classified as a "moderate" PM_{10} nonattainment area but was later re-classified as a "serious" PM_{10} nonattainment area. *See* 58 FR 3334 (January 8, 1993). States with "serious"

[1] The Las Vegas Valley encompasses roughly 1,500 square miles within Clark County and includes the cities of Las Vegas, North Las Vegas, and Henderson. Roughly two million people reside in Clark County, mostly within Las Vegas Valley. NDEP is the state agency under state law that is responsible for SIP matters for the State of Nevada. Within Clark County, the Clark County Board of County Commissioners, acting through the Clark County Department of Air Quality (Clark County DAQ), is empowered under state law to develop air quality plans and to regulate stationary sources within the county with the exception of certain types of power plants, which lie exclusively within the jurisdiction of NDEP.

[2] In 2006, EPA retained the 24-hour PM_{10} standard but revoked the annual PM_{10} standard. *See* 71 FR 61144 (October 17, 2006). More recently, as part of the Agency's periodic review of the NAAQS, EPA reaffirmed the 24-hour PM_{10} NAAQS. *See* 78 FR 3086 (January 15, 2013). *See* 40 CFR 50.6 ("National primary and secondary ambient air quality standards for PM_{10}").

PM_{10} nonattainment areas were required under the CAA, as amended in 1990, to submit revisions to their SIPs to, among other things, demonstrate attainment of the PM_{10} standard as expeditiously as practicable, but no later than 2001. *See* CAA section 188(c). However, EPA is authorized to extend the attainment date for such an area by up to 5 years if the State qualifies for an extension under the terms specified in the statute. *See* CAA section 188(e). To qualify, among other requirements, a State must demonstrate that the plan includes the most stringent measures (MSM) that are included in the SIP of any State or are achieved in practice in any State, and can feasibly be implemented in the area.

In 2001, NDEP submitted the *PM–10 State Implementation Plan for Clark County* (June 2001) ("Las Vegas Valley PM_{10} Attainment Plan") to EPA as a revision to the Nevada SIP to meet the requirements for "serious" PM_{10} nonattainment areas. In 2002, NDEP submitted certain amendments to the Las Vegas Valley PM_{10} Attainment Plan and a set of local fugitive dust rules relied upon by the plan. In 2004, EPA approved the Las Vegas Valley PM_{10} Attainment Plan, as amended, and the set of fugitive dust rules. *See* 69 FR 32273 (June 9, 2004).

Specifically, as part of our 2004 final action, EPA approved the following SIP elements:

- The baseline and projected emissions inventories as required under CAA section 172(c)(3);
- The demonstration that attainment of the 24-hour standard by December 31, 2001 is impracticable as required under CAA section 189(b)(1)(A);
- The demonstration that attainment of the 24-hour standard will occur by the most expeditious alternative date practicable, in this case, December 31, 2006, as required under CAA sections 189(b)(1)(A) and 188(e);
- The demonstration that the plan includes MSM as required under CAA section 188(e);
- The demonstration that the plan provides for implementation of best available control measures (BACM) as required under CAA section 189(b)(1)(B);
- The demonstration that major sources of PM_{10} precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM_{10} standards as authorized under CAA section 189(e);
- The demonstration that the plan provides for reasonable further progress and quantitative milestones as required under CAA sections 189(c) and 172(c)(2);
- The contingency measures as required under CAA section 172(c)(9);
- Transportation conformity motor vehicle emissions budgets, including a budget of 141.41 tons per day beginning in year 2006; and
- Clark County fugitive dust rules: Section 90 ("Fugitive Dust from Open Areas and Vacant Lots"), section 91 ("Fugitive Dust from Unpaved Roads, Unpaved Alleys and Unpaved Easement Roads"), section 92 ("Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards"), section 93 ("Fugitive Dust from Paved Roads & Street Sweeping Equipment"), and section 94 ("Permitting & Dust Control for Construction Activities").

As noted above, EPA approved the demonstration in the Las Vegas Valley PM_{10} Attainment Plan of December 31, 2006 as the most expeditious practicable alternative attainment date, and in 2010, based on a review of the ambient monitoring data for years 2004–2006, EPA determined that the Las Vegas Valley PM_{10} nonattainment area had attained the 24-hour PM_{10} NAAQS by the approved alternative attainment date, i.e., December 31, 2006. *See* 75 FR 45485 (August 3, 2010).

On September 7, 2012, NDEP submitted the Las Vegas Valley PM_{10} Maintenance Plan and requested that EPA redesignate the Las Vegas Valley PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS, and on May 27, 2014, NDEP submitted revised versions of Clark County's fugitive dust rules that were amended by Clark County to ensure their continued applicability once the area is redesignated to attainment. In today's proposed rule, we are proposing action on NDEP's September 7, 2012 submittal of the Las Vegas Valley PM_{10} Maintenance Plan and request for redesignation to attainment, as well as the amended Clark County fugitive dust rules.

The 1990 Act Amendments also provided for the continued transition from TSP to PM_{10}. Specifically, section 107(d)(4)(B) states in relevant part: "Any designation for particulate matter (measured in terms of total suspended particulates) that the Administrator promulgated pursuant to this subsection (as in effect immediately before November 15, 1990) shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(b) of this title, until the Administrator determines that such designation is no longer necessary for that purpose."

Section 166(f) of the 1990 amended Act authorizes EPA to replace the TSP increments with PM_{10} increments, and in 1993, EPA promulgated the PM_{10} increments and revised the PSD regulations accordingly. See 58 FR 31622 (June 3, 1993). In our June 1993 final rule, we indicated that the replacement of the TSP increments with PM_{10} increments negates the need for the TSP attainment or unclassifiable area designations to be retained. We also indicated that we would delete such TSP designations in 40 CFR part 81 upon the occurrence of, among other circumstances, EPA's approval of a State's or local agency's revised PSD program containing the PM_{10} increments. See 58 FR 31622, at 31635 (June 3, 1993).

In November 2002, we deleted the TSP attainment or unclassifiable area designations throughout the State of Nevada, except for those in Clark County. *See* 67 FR 68769 (November 13, 2002). In April 2013, we deleted the TSP attainment or unclassifiable area designations within Clark County and deleted the TSP nonattainment area designations for all of the Nevada TSP nonattainment areas, except for the Las Vegas planning area (i.e., HA #212, Las Vegas Valley) and the Reno planning area (i.e., HA #87, Truckee Meadows).[3] *See* 78 FR 22425 (April 16, 2013). In today's proposed rule, we are proposing to delete the TSP nonattainment area designation for Las Vegas Valley.

III. Procedural Requirements for Adoption and Submittal of SIP Revisions

Sections 110(a)(1) and 110(l) of the Act require States to provide reasonable notice and public hearing prior to adoption of SIP revisions. In this action, we are proposing action on NDEP's September 7, 2012 submittal of the Las Vegas Valley PM_{10} Maintenance Plan (August 2012) as a revision to the Nevada SIP.[4] We are also proposing action on NDEP's May 27, 2014

[3] In June 1992, the State of Nevada requested that we reclassify the eight existing TSP nonattainment areas in Nevada to "unclassifiable" status. *See* letter from L.H. Dodgion, Administrator, NDEP, to Daniel W. McGovern, Regional Administrator, EPA Region IX, dated June 15, 1992. We believe that deletion of the TSP nonattainment designations is administratively more efficient than redesignation of the area to unclassifiable. As noted above, we have already deleted six of the TSP nonattainment area designations and are proposing to delete the one for Las Vegas Valley herein. We will consider deletion of the one other remaining TSP area designation, i.e., the TSP designation for Reno (HA #87, Truckee Meadows), in a future rulemaking.

[4] NDEP's September 7, 2012 submittal of the Las Vegas Valley PM_{10} Maintenance Plan became complete by operation of law on March 7, 2013.

submittal of Clark County's amended fugitive dust rules as a revision to the Nevada SIP. These two submittals contain documentation of the public review process followed by Clark County and NDEP in adopting the SIP revisions prior to submittal to EPA. As discussed below, the documentation provides sufficient evidence that reasonable notice of public hearings was provided to the public and that public hearings were conducted prior to adoption.

NDEP's submittal of the Las Vegas Valley PM_{10} Maintenance Plan includes a letter dated August 27, 2012 from Lewis Wallenmeyer, Director, Clark County Department of Air Quality (Clark County DAQ), to Colleen Cripps, Administrator, NDEP, submitting the Las Vegas Valley PM_{10} Maintenance Plan and redesignation request to NDEP. NDEP's letter dated September 7, 2012 transmitting the plan to EPA and requesting that EPA approve the plan and redesignation request constitutes NDEP's adoption of the plan as a revision to the Nevada SIP.

Appendix B ("Documentation of the Public Review Process") of the Las Vegas Valley PM_{10} Maintenance Plan includes a copy of the notice to the public published in a newspaper of general circulation on January 15, 2012 announcing a 30-day comment period on the proposed Las Vegas Valley PM_{10} Maintenance Plan and a public hearing after the close of the comment period; a copy of comments received and Clark County DAQ's responses; various web notices issued by Clark County DAQ in connection with review of the proposed plan; and documentation of the public hearing on the proposed plan and subsequent adoption of the plan by the Clark County Board of County Commissioners on August 21, 2012. These materials adequately document the public review process followed by Clark County in adopting the plan prior to transmittal to NDEP and provide sufficient evidence that reasonable notice of a public hearing was provided to the public and that a public hearing was conducted prior to adoption.

NDEP's May 27, 2014 submittal of Clark County's amended fugitive dust rules includes documentation of the public process used by Clark County to adopt the changes, including publication of notice of a 30-day public review and comment period (February 22, 2014–March 25, 2014) and related public hearing in a newspaper of general circulation. As documented in the submittal, Clark County Board of County Commissioners adopted the amendments on April 15, 2014, effective April 29, 2014.

Based on the documentation included in NDEP's submittals, discussed above, we find that the submittals of the Las Vegas Valley PM_{10} Maintenance Plan and the amended fugitive dust rules as SIP revisions satisfy the procedural requirements of sections 110(a) and 110(l) of the Act for revising SIPs.

IV. Substantive Requirements for Redesignation

The CAA establishes the requirements for redesignation of a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation provided that the following criteria are met: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and (5) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignations in a document titled, "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," published in the **Federal Register** on April 16, 1992 (57 FR 13498), and supplemented on April 28, 1992 (57 FR 18070). Other relevant EPA guidance documents include: "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, September 4, 1992 (referred to herein as the "Calcagni memo"); "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and "State Implementation Plans for Serious PM_{10} Nonattainment Areas, and Attainment Date Waivers for PM_{10} Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).

For the reasons set forth below in section V of this document, we propose to approve NDEP's request for redesignation of the Las Vegas Valley PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS based on our conclusion that all of the criteria under CAA section 107(d)(3)(E) have been satisfied.

V. Evaluation of the State's Redesignation Request for the Las Vegas Valley PM_{10} Nonattainment Area

A. Determination That the Area Has Attained the PM_{10} NAAQS

CAA section 107(d)(3)(E)(i) states that, for an area to be redesignated to attainment, EPA must determine that the area has attained the relevant NAAQS. In this case, the relevant NAAQS is the PM_{10} NAAQS. As noted above, in 2010, EPA determined that the Las Vegas Valley nonattainment area attained the PM_{10} standard by the area's applicable attainment date of December 31, 2006 based on data for years 2004–2006. Today's action updates this determination based on the most recent available PM_{10} monitoring data.

Generally, EPA determines whether an area's air quality is meeting the 24-hour PM_{10} NAAQS based upon complete,[5] quality-assured, and certified data gathered at established state and local air monitoring stations (SLAMS) in the nonattainment area and entered into the EPA Air Quality System (AQS) database. EPA will consider air quality data from air monitoring stations other than SLAMS in the nonattainment area provided those stations meet the federal monitoring requirements for SLAMS, including the quality assurance and quality control criteria in 40 CFR part 58, appendix A. *See* 40 CFR 58.20; 71 FR 61236, 61242; (October 17, 2006).

Data from air monitors operated by state, local, or tribal agencies in compliance with EPA monitoring requirements must be submitted to AQS. These monitoring agencies certify annually that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in AQS when determining the attainment status of an area. *See* 40 CFR 50.6; 40 CFR part 50, appendices J and K; 40 CFR part 53; and, 40 CFR part 58, appendices A, C, D, and E. All valid data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix K.

Attainment of the 24-hour PM_{10} standard is determined by calculating the expected number of exceedances of the standard in a year. The 24-hour PM_{10} standard is attained when the

[5] For PM_{10}, a complete set of data includes a minimum of 75 percent of the scheduled PM_{10} samples per quarter. *See* 40 CFR part 50, Appendix K, section 2.3(a).

expected number of exceedances averaged over a three-year period is less than or equal to one at each monitoring site within the nonattainment area. Three consecutive years of air quality data are required to show attainment of the 24-hour PM_{10} standard. *See* 40 CFR part 50 and appendix K. More than three years may be considered if all additional representative years of data meeting the 75 percent criterion are utilized. Data not meeting these criteria may also suffice to show attainment; however, such exceptions must be approved by the appropriate Regional Administrator in accordance with EPA guidance. *See* 40 CFR part 50, appendix K, section 2.3.

Clark County DAQ is responsible for monitoring ambient air quality within Clark County. Clark County submits annual monitoring network plans to EPA. These network plans describe the monitoring network operated by Clark County DAQ within Clark County. These plans discuss the status of the air monitoring network, as required under 40 CFR 58.10.

EPA regularly reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM_{10}, EPA has found that the area's network plans meet the applicable reporting requirements under 40 CFR part 58.[6] EPA also concluded from its 2012 Technical System Audit that Clark County DAQ's monitoring network currently meets or exceeds the requirements for the minimum number of SLAMS for PM_{10} in the Las Vegas Valley nonattainment area.[7] Clark County DAQ annually certifies that the data it submits to AQS are complete and quality-assured.[8]

During the 2004–2006 period, Clark County DAQ operated 13 PM_{10} SLAMS monitoring sites within Las Vegas Valley. *See* 75 FR 45485, at 45488 (August 3, 2010). Between 2006 and 2009, four of the sites were closed or stopped monitoring PM_{10}. In 2010, Clark County DAQ discontinued PM_{10} monitoring at three more sites: Lone Mountain (northwest Las Vegas), Orr School (central-southeast Las Vegas), and Craig Road (North Las Vegas).[9] Notwithstanding the decrease in the number of PM_{10} monitoring sites, Clark County DAQ continues to meet EPA requirements for the minimum number of PM_{10} monitoring sites in Clark County.

In 2012, Clark County DAQ established a new PM_{10} monitoring site,[10] and thus, at the present time, Clark County DAQ operates seven PM_{10} SLAMS monitoring sites within Las Vegas Valley: Green Valley (Henderson), J.D. Smith School (North Las Vegas), Joe Neal (northwest Las Vegas), Paul Meyer Park (southwest Las Vegas), Palo Verde School (west Las Vegas), Sunrise Acres School (central Las Vegas), and Jerome Mack (east Las Vegas).[11] All seven sites monitor PM_{10} concentrations on a continuous, year-round basis using beta attenuation methods. *See* Clark County DAQ's *Annual Monitoring Network Plan Report* (June 2013). Each of these methods has been granted the Federal Equivalent Method (FEM) designation by EPA. The PM_{10} monitoring sites have been established to monitor for population exposure in the middle or neighborhood scale.[12]

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the quality-assured and certified PM_{10} ambient air monitoring data as recorded in AQS for the applicable monitoring period collected at the monitoring sites in the Las Vegas Valley nonattainment area and determined that the data are of sufficient completeness for the purposes of making comparisons with the PM_{10} standards.

EPA's review of monitoring data for the PM_{10} standard for Las Vegas Valley includes exceedances of the standard recorded during the 2011–2013 time period. However, EPA is excluding the exceedances of the standard in 2011 from the attainment determination presented herein because they were the result of an exceptional event. On April 16, 2014 Clark County DAQ submitted a demonstration for a high wind PM_{10} exceptional event covering the two exceedances recorded on July 3, 2011 at the J.D. Smith and Sunrise Acres monitoring sites. EPA reviewed the documentation that Clark County DAQ provided to demonstrate that the exceedances on these days meet the criteria for an exceptional event under EPA's Exceptional Events Rule (EER).[13] EPA concurred with Clark County DAQ's request for exceptional event determination that, based on the weight of evidence, the two exceedances were caused by a high wind exceptional event.[14] Accordingly, EPA has determined that the monitored exceedances associated with this exceptional event should be excluded from use in determinations of exceedances and violations, including the evaluation of whether Las Vegas Valley has attained the standard for the purposes of redesignation under CAA section 107(d)(3)(E)(i).

Table 1 below shows the maximum 24-hour PM_{10} concentrations monitored at the seven PM_{10} sites over the most recent three-year period (2011–2013) and lists the calculated expected exceedances per year at each of the sites over that same period. As shown in table 1 below, exceedances were monitored at four of the sites in 2012, and at all of the sites in 2013. All of the exceedances in 2012 were recorded on May 10, 2012, and all of the exceedances in 2013 were recorded on two days, April 15 and October 28, 2013. Clark County DAQ has flagged these exceedances as exceptional events. As noted above in connection with the 2011 exceedances, if EPA concurs on exceedances as exceptional events, they are excluded from the determination of whether the area is attaining the NAAQS, but EPA has not taken action to concur on any of the exceedances in 2012 or 2013, and thus, the 2012 and 2013 exceedances are not being excluded from today's evaluation.

[6] See, e.g., letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Phil Wiker, Engineering Manager, Clark County DAQ, dated December 11, 2013, approving the relevant portions of Clark County DAQ's 2013 Annual Network Plan.

[7] See EPA Region IX, Technical System Audit Report, Clark County Department of Air Quality Ambient Air Monitoring Program, July 26–July 27, 2012, Final report, July 2013, page 8. Enclosed with letter from Deborah Jordan, Director, Air Division, U.S. EPA Region IX, to Lewis Wallenmeyer, Clark County DAQ (August 1, 2013).

[8] See, e.g., letter from Lewis Wallenmeyer, Clark County DAQ, to Fletcher Clover, Air Quality Analysis Office, EPA Region IX, certifying 2013 ambient air quality data and quality assurance data (April 22, 2014).

[9] EPA has approved Clark County DAQ's discontinuation of PM_{10} monitoring at these sites. See letter from Matthew Lakin, U.S. EPA Region IX, to Mike Sword, Clark County DAQ (June 5, 2013) (Lone Mountain and Orr sites), and letter from Meredith Kurpius, U.S. EPA Region IX, to Mike Sword, Clark County DAQ (October 30, 2013) (Craig Road site).

[10] The new site is the Jerome Mack site, AQS ID: 32–003–0540. In addition, in 2013, the Las Vegas Paiute tribe began monitoring for PM_{10} at an eighth site within the Las Vegas Valley PM_{10} nonattainment area. This eighth site has not been approved by EPA for NAAQS compliant monitoring.

[11] Figure 2–1 of the Las Vegas Valley PM_{10} Maintenance Plan illustrates the locations of Clark County DAQ PM_{10} monitoring sites (other than Jerome Mack).

[12] In this context, "middle scale" refers to conditions characteristic of areas from 100 meters to half a kilometer, and "neighborhood scale" refers to conditions throughout some reasonably homogeneous urban sub-region with dimensions of a few kilometers. *See* 40 CFR part 58, appendix D, section 4.6.

[13] 40 CFR 50.1(j), (k), (l); 50.14; 51.930.

[14] See letter from Jared Blumenfeld, EPA Region IX, to Lewis Wallenmeyer, Clark County DAQ, dated June 25, 2014.

TABLE 1—SUMMARY OF LAS VEGAS VALLEY PM_{10} MONITORING DATA, 2011–2013

Monitoring site (AQS Monitor ID)	Highest 24-hour PM_{10} concentration (μg/m³)			2nd Highest 24-hour PM_{10} concentration (μg/m³)			Expected exceedances per year
	2011	2012	2013	2011	2012	2013	2011–2013
Green Valley (32–003–0298)	143	145	[b]196	82	125	88	0.3
J.D. Smith (32–003–2002)	71	[b]203	[b]237	66	82	[b]169	1.0
Jerome Mack (32–003–0540)	NA	[b]228	[b]243	NA	138	121	[a]0.7
Joe Neal (32–003–0075)	130	[b]182	[b]226	100	88	131	0.7
Palo Verde (32–003–0073)	89	138	[b]212	43	94	119	0.3
Paul Meyer (32–003–0043)	103	147	[b]164	62	139	74	0.3
Sunrise Acres (32–003–0561)	85	[b]211	[b]267	66	81	136	0.7

NA = Not applicable. The Jerome Mack site opened in 2012.
[a] The listed design value is not valid because it does not meet completeness requirements.
[b] Values represent exceedances of the 150 μg/m³ NAAQS. Violations occur when the "expected exceedances per year" averaged over a three-year period exceed 1.0.
Source: Letter and attachments from Lewis Wallenmeyer, Clark County DAQ, to Fletcher Clover, Air Quality Analysis Office, EPA Region IX, certifying 2013 ambient air quality data and quality assurance data (April 22, 2014).

Based on a review of air quality data during the most recent complete three-year period (2011–2013) (summarized above in table 1) and without excluding the 2012 or 2013 exceedances, we find that the expected number of exceedances per year for Las Vegas Valley is 1.0 days per year (based on the J.D. Smith monitoring site). The 24-hour PM_{10} standard is attained when the expected number of exceedances averaged over a three-year period is less than or equal to one at each monitoring site within the nonattainment area. Therefore, we find that, based on complete, quality-assured, and certified data for three most recent years (2011–2013) that the Las Vegas Valley PM_{10} nonattainment area has attained the 24-hour PM_{10} standard. SLAMS data for 2014 are not yet available from these monitoring sites but will be reviewed prior to final action to ensure that they are consistent with continued attainment.

B. The Area Must Have a Fully Approved SIP Meeting Requirements Applicable for Purposes of Redesignation Under Section 110 and Part D

Section 107(d)(3)(E)(ii) and (v) require EPA to determine that the area has a fully-approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation.

1. Basic SIP Requirements Under CAA Section 110

Section 110(a)(2) sets forth the general elements that a SIP must contain in order to be fully approved. Although section 110(a)(2) was amended in 1990, a number of the requirements did not change in substance, and therefore, EPA believes that the pre-amendment EPA-approved SIP met these requirements in Clark County with respect to PM_{10}. As to those requirements that were amended, (see 57 FR 27936 and 27939, June 23, 1992), many are duplicative of other requirements of the Act.

On numerous occasions over the past 38 years, NDEP has submitted, and we have approved, provisions addressing the basic CAA section 110 provisions. The Clark County portion of the approved Nevada SIP contains enforceable emission limitations; requires monitoring, compiling and analyzing of ambient air quality data; requires preconstruction review of new or modified stationary sources; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and provides the necessary assurances that the State maintains responsibility for ensuring that the CAA requirements are satisfied in the event that Clark County is unable to meet its CAA obligations.[15]

There are no outstanding or disapproved applicable SIP submittals with respect to the Clark County portion of the SIP that prevent redesignation of the Las Vegas Valley PM_{10} nonattainment area for the 24-hour PM_{10} standard.[16] Therefore, we find that

[15] The applicable SIP for NDEP and Clark County may be found at *http://yosemite.epa.gov/r9/r9sips.nsf/allsips?readform&state=Nevada*. We note that SIPs must be fully approved only with respect to applicable requirements for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). Thus, for example, CAA section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state.

Thus, we do not believe that these requirements should be construed to be applicable requirements for purposes of redesignation. In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The State will still be subject to these requirements after Las Vegas Valley is redesignated. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings 61 FR 53174–53176 (October 10, 1996), 62 FR 24826 (May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking 61 FR 20458 (May 7, 1996); and Tampa, Florida, final rulemaking 60 FR 62748 (December 7, 1995). *See* also the discussion of this issue in the Cincinnati redesignation at 65 FR 37890 (June 19, 2000), in the Pittsburgh redesignation at 66 FR 53099 (October 19, 2001), and in the Los Angeles redesignation at 72 FR 6986 (February 14, 2007) and 72 FR 26718 (May 11, 2007). EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation.

[16] In 2012, EPA took final limited approval and limited disapproval action on updated new source review (NSR) rules adopted by Clark County and

Continued

NDEP and Clark County have met all SIP requirements for Clark County applicable for purposes of redesignation under section 110 of the CAA (General SIP Requirements).

2. SIP Requirements Under Part D

Part D Requirements Other Than NSR or Conformity

Subparts 1 and 4 of part D, title I of the CAA contain air quality planning requirements for PM_{10} nonattainment areas. Subpart 1 contains general requirements for all nonattainment areas of any pollutant, including PM_{10}, governed by a NAAQS. The subpart 1 requirements include, in relevant part, provisions for emissions inventories, reasonable further progress (RFP), a program for preconstruction review and permitting of new or modified major stationary sources ("New Source Review," or NSR), contingency measures, and conformity.

Subpart 4 contains specific SIP requirements for PM_{10} nonattainment areas. The requirements set forth in CAA sections 189(a), (c), and (e) apply specifically to "moderate" PM_{10} nonattainment areas and include, in relevant part: (1) Provisions for implementation of reasonably available control measures (RACM); (2) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date; and (3) provisions to ensure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where EPA has determined that such sources do not contribute significantly to PM_{10} levels that exceed the NAAQS in the area. Under CAA section 189(b), "serious" PM_{10} nonattainment areas, such as Las Vegas Valley, must meet the "moderate" area requirements discussed above and, in addition, must develop and submit an attainment demonstration as well as provisions to assure the implementation of best available control measures (BACM) for the control of PM_{10}.

As noted previously, in 2004, EPA approved the *PM–10 State Implementation Plan for Clark County* (June 2001) ("Las Vegas Valley PM_{10} Attainment Plan") as a revision to the Nevada SIP. *See* 69 FR 32273 (June 9, 2004). The Las Vegas Valley PM_{10} Attainment Plan was developed to meet the SIP requirements for "serious" PM_{10} nonattainment areas under subparts 1 and 4 of part D, except those related to NSR or conformity. More specifically, as part of our 2004 final action, EPA approved the Las Vegas Valley PM_{10} Attainment Plan as meeting the following requirements: Baseline and projected emissions inventories as required under CAA section 172(c)(3); the demonstration that the plan provides for RFP and quantitative milestones as required under CAA sections 172(c)(2) and 189(c); the contingency measures as required under CAA section 172(c)(9); the demonstration that major sources of PM_{10} precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM_{10} standards as provided in CAA section 189(e); the attainment demonstration under CAA sections 189(b)(1)(A); and the demonstration that the plan provides for implementation of BACM as required under CAA section 189(b)(1)(B). Because the demonstration of BACM subsumes the demonstration of RACM, a separate analysis to determine if the measures represent a RACM level of control was not necessary. EPA's approval of the BACM demonstration in the Las Vegas Valley PM_{10} Attainment Plan, therefore, also represented a finding that the plan provides for the implementation of RACM as required under CAA section 189(a)(1)(C). *See* 69 FR 32273 (June 9, 2004).

Thus, for the reasons given above, and excluding NSR and conformity, which we address separately below, we find that Clark County has a fully-approved PM_{10} SIP with respect to the part D requirements for RACM, BACM, and other serious PM_{10} area SIP requirements.

Permits for New and Modified Major Stationary Sources

To meet the requirements of CAA sections 172(c)(5) and 189(a)(1)(A), states must submit SIP revisions that meet the requirements under 40 CFR 51.165 ("Permit requirements"). Under 40 CFR 51.165, states are required to submit SIP revisions that establish certain requirements for new or modified stationary sources in nonattainment areas, including provisions to ensure that major new sources or major modifications of existing sources of nonattainment pollutants incorporate the highest level of control, referred to as the Lowest Achievable Emission Rate (LAER), and that increases in emissions from such stationary sources are offset so as to provide for reasonable further progress towards attainment in the nonattainment area. *See* CAA section 173(a)(1)(A) and 40 CFR 51.165(a)(9)(ii)(A).

The process for reviewing permit applications and issuing permits for new or modified stationary sources of air pollution is referred to as "New Source Review" (NSR). With respect to nonattainment pollutants in nonattainment areas, this process is referred to as "nonattainment NSR." With respect to pollutants for which an area is designated as attainment or unclassifiable, states are required to submit SIP revisions that ensure that major new stationary sources and major modifications of existing stationary sources meet the Federal requirements for Prevention of Significant Deterioration (PSD), including application of "best available control technology," for each applicable pollutant emitted in significant amounts, among other requirements.

Within the Las Vegas PM_{10} nonattainment area, two agencies are responsible for meeting the requirements for nonattainment NSR and PSD: NDEP and Clark County DAQ. Under Nevada law, exclusive NDEP jurisdiction extends to specific electric steam-generating emission units (i.e., power plants) throughout the State of Nevada, and thus, state regulations govern air pollution permits issued to those types of units within Clark County. Clark County DAQ is responsible for all other stationary source emissions units within Clark County, and Clark County regulations govern air pollutant permits issued to them.

With respect to those sources that are under State jurisdiction, we have approved a State rule (Nevada Administrative Code (NAC) section 445B.22083) that prohibits new power plants or major modifications to existing power plants under State jurisdiction within the Las Vegas Valley nonattainment area. See 69 FR 31056, 31059 (June 2, 2004) and 69 FR 54006, at 54017 (September 7, 2004). In 2008, we approved an amended version of NAC section 445B.22083 that clarifies the application of NSR requirements to any relocation of power generating units. *See* 73 FR 20536 (April 16, 2008).

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submitted as a revision to the Nevada SIP (77 FR 64039, October 18, 2012) and issued a partial approval and partial disapproval of Nevada's "infrastructure" SIP for the 1997 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS (77 FR 64737, October 23, 2012). While these two final rules are not full approvals, they do not represent an obstacle to redesignation of the Las Vegas Valley PM_{10} nonattainment area because the "infrastructure" SIP elements that EPA disapproved are not related to the nonattainment SIP requirements for the Las Vegas Valley PM_{10} nonattainment area and thus are not relevant for the purposes of redesignation and because, notwithstanding the limited approval and limited disapproval of the amended NSR rules, the Clark County DAQ NSR rules continue to meet the fundamental SIP requirements for NSR in "serious" PM_{10} nonattainment areas.

The submittal and approval of the State's prohibition on new major power plants or major modifications to existing power plants in Las Vegas Valley adequately substitutes for submittal and approval of a SIP revision meeting nonattainment NSR requirements in Las Vegas Valley with respect to sources under NDEP jurisdiction.

With respect to sources under Clark County DAQ jurisdiction, we approved Clark County's NSR rules as meeting the requirements of section 172(c)(5) and, for PM_{10}, section 189(a)(1)(A). *See* 69 FR 54006 (September 7, 2004); also, *see* our proposed rule at 69 FR 31056, at 31059 (June 2, 2004) for details on how Clark County's NSR rules complied with CAA requirements for PM_{10} nonattainment areas. In recent years, Clark County DAQ has adopted comprehensive changes to its NSR program and, in 2012, EPA issued a limited approval and limited disapproval for the revised program. *See* 77 FR 64039 (October 18, 2012). With respect to nonattainment NSR, EPA found a number of deficiencies; however, the Clark County NSR rules continue to meet the basic requirements for a serious PM_{10} nonattainment NSR area, including a definition of "major stationary source" as a stationary source which emits, or has the potential to emit, seventy (70) tons per year or more of PM_{10}, emissions limitations that constitute LAER, and emissions reductions to offset emissions increases that would otherwise occur.[17] See Clark County section 12.3.2 ("Definitions," subsection (y) "Major Stationary Source"); 12.3.5.2 ("Permit Requirements to Achieve LAER"); and 12.3.6 ("Emissions Offset").

Moreover, Clark County's SIP-approved NSR rules have served as a federally-enforceable constraint on the growth of stationary source emissions, and thus have supported the region's efforts to lower ambient PM_{10} concentrations in Las Vegas Valley. Therefore, given the prohibition on new sources or major modifications of existing sources under NDEP jurisdiction and given that the fundamental nonattainment NSR requirements are approved into the SIP for sources under Clark County DAQ jurisdiction, we conclude that the State has met the applicable NSR requirements for the Las Vegas PM_{10} nonattainment area for the purposes of redesignation of the area to attainment for the PM_{10} standard.

[17] The deficiencies that have any bearing on PM_{10} are limited to a few definitions: "allowable emissions," "baseline actual emissions," "net emissions increase," and "major modification." *See* 77 FR 64039, at 64047 (October 18, 2012).

General and Transportation Conformity Requirements

Under section 176(c) of the Clean Air Act Amendments of 1990, States are required to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. Section 176(c) further provided that State conformity provisions must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. EPA's conformity regulations are codified at 40 CFR part 93, subparts A (referred to herein as "transportation conformity") and B (referred to herein as "general conformity"). Transportation conformity applies to transportation plans, programs, and projects developed, funded, and approved under title 23 U.S.C. or the Federal Transit Act, and general conformity applies to all other Federally-supported or funded projects. SIP revisions intended to address the conformity requirements are referred to herein as "conformity SIPs."

In November 2008, EPA approved Clark County's transportation conformity criteria and procedures as meeting the related SIP requirements under part 51, subpart T ("Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws"). *See* 73 FR 66182 (November 7, 2008).

In August 2005, Congress passed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), which eliminated the requirement for States to adopt and submit conformity SIPs addressing general conformity requirements. *See* 75 FR 17254 (April 5, 2010) for conforming changes to EPA's general conformity regulations. Based on our approval of Clark County's transportation conformity SIP and SAFETEA–LU's elimination of the general conformity SIP requirement, we find that Clark County and the State have met the requirements for conformity SIPs in the Las Vegas Valley PM_{10} nonattainment area under CAA section 176(c). In any event, EPA believes it is reasonable to interpret the conformity requirements as not applicable for purposes of evaluating a redesignation request under section 107(d)(3)(E). See *Wall* v. *EPA*, 265 F.3d 426, 439 (6th Cir. 2001) upholding this interpretation.

3. Conclusion With Respect to Sections 107(d)(3)(E)(ii) and (v)

Thus, EPA finds, based on our review of EPA's previous rulemakings on the relevant portions of the Nevada SIP and for the reasons provided above, that the Las Vegas Valley has a fully approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation, and thereby meets the criteria for redesignation under CAA sections 107(d)(3)(E)(ii) and (v).

C. The Area Must Show the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) precludes redesignation of a nonattainment area to attainment unless EPA determines that the improvement in air quality is due to permanent and enforceable emissions reductions resulting from implementation of the applicable SIP and applicable Federal air pollution control regulations and other permanent and enforceable regulations. Under this criterion, the state must be able to reasonably attribute the improvement in air quality to emissions reductions which are permanent and enforceable. Attainment resulting from temporary reductions in emissions rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emission reductions. *See* the Calcagni memo, page 4.

The Las Vegas Valley PM_{10} Maintenance Plan credits a number of local and Federal control measures for having reduced PM_{10} emissions and concentrations within Las Vegas Valley sufficiently to attain the NAAQS, and relies on their continued implementation to provide for maintenance of the NAAQS now that the NAAQS has been attained. The local control measures cited in the maintenance plan include certain Clark County Air Quality Regulations (AQR), such as the NSR rule (AQR section 12), the acid rain permit rule (AQR section 21), and the fugitive dust rules (AQR sections 90 through 94); best available retrofit technology to meet the requirements of EPA's regional haze rule; the transportation conformity process; and the Clark County Natural Events Action Plan. Federal control measures cited in the maintenance plan include the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) and Standards of

Performance for New Stationary Sources (NSPS).

While we agree that all of the measures cited above contributed to attainment and will contribute to maintenance of the PM_{10} NAAQS in Las Vegas Valley, the backbone of the control strategy that provided for attainment of the PM_{10} NAAQS was Clark County's section 90 series regulations governing fugitive dust sources. Clark County's section 12 NSR rule and local ordinances (Clark County, and the cities of Las Vegas, North Las Vegas, and Henderson) regulating new fireplaces also contributed to attainment of the standard and will contribute to maintenance of the standard.

In our approval of the BACM demonstration in the Las Vegas Valley PM_{10} Attainment Plan, we described the BACM analysis in terms of a series of steps intended to identify all of the sources or source categories that significantly contribute to exceedances of the NAAQS and to provide for implementation of BACM for all of those sources or source categories. Clark County's approved BACM demonstration identified certain fugitive dust sources, including disturbed vacant land/unpaved parking lots, construction (including highway construction), paved roads, unpaved roads, and race tracks as the source categories that significantly contribute to exceedances of the PM_{10} NAAQS in Las Vegas Valley. *See* 68 FR 2954, at 2959 (January 22, 2003). In the approved Las Vegas Valley PM_{10} Attainment Plan, Clark County further demonstrated how Clark County AQR sections 90 through 94 implemented BACM for the relevant source categories.[18] EPA approved these regulations as part of the SIP at the same time that EPA approved the Las Vegas Valley PM_{10} Attainment Plan, 69 FR 32273 (June 9, 2004), and since then, the Clark County fugitive dust regulations have been federally enforceable. Clark County's section 12 NSR rule has been approved as part of the SIP, most recently at 77 FR 64039 (October 18, 2012), as have the local fireplace ordinances cited above, 68 FR 52838 (September 8, 2003).

We also note that Clark County's 90 series regulations were implemented in the early 2000s, and a rough indication of their impact on ambient PM_{10} concentrations can be seen in figure 2–2 in the Las Vegas Valley PM_{10} Maintenance Plan that shows a steep decline in design values[19] for Las Vegas Valley from the late 1990s beginning in 2002 to a level below the NAAQS beginning in 2005. This improvement occurred despite a 30 percent increase in population in Las Vegas Valley during the same period.[20] Thus, the improvement in air quality since 2000 may reasonably be attributed to implementation of Clark County's 90 series (i.e., fugitive dust) rules. Moreover, while we recognize that annual rainfall during the 2003–2005 period in Las Vegas Valley was higher than normal, we note that the downward trend in concentrations began prior to that time and that maintenance of the NAAQS has continued since the mid-2000s despite lower-than-normal rainfall from 2006–2009.[21]

Thus, we find that the improvement in air quality in the Las Vegas Valley PM_{10} nonattainment area is the result of permanent and enforceable emissions reductions from a combination of permanent and enforceable measures, including, but not limited to fugitive dust rules, the NSR rule, and fireplace ordinances, and is not the result of adverse economic conditions or unusual meteorological conditions. As such, we find that the criterion for redesignation set forth at CAA section 107(d)(3)(E)(iii) is satisfied.

D. The Area Must Have a Fully-Approved Maintenance Plan Under CAA Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under CAA section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency provisions as EPA deems necessary to promptly correct any violation of the NAAQS that occurs after redesignation of the area.

To meet these requirements, maintenance plans should include the following core elements: Attainment inventory, maintenance demonstration, continuation of an adequate monitoring network, verification of continued attainment, and contingency plan. See Calcagni memo, pages 8 through 13. Based on our review and evaluation of the plan, as detailed below, we are proposing to approve the Las Vegas Valley PM_{10} Maintenance Plan because we have found that it meets the requirements of CAA section 175A.

1. Attainment Inventory

A maintenance plan for the 24-hour PM_{10} standard must include an inventory of emissions of PM_{10} in the area to identify a level of emissions sufficient to attain the 24-hour PM_{10} NAAQS.[22] This inventory must be consistent with EPA's most recent guidance on emissions inventories for nonattainment areas available at the time and should represent emissions during the time period associated with the monitoring data showing attainment. The inventory must also be comprehensive, including emissions from stationary point sources, area sources, nonroad mobile sources, and on-road mobile sources, and must be based on actual emissions during the appropriate season or episode, if applicable. In the following paragraphs, we summarize our findings with respect to the emissions inventories prepared for the Las Vegas Valley PM_{10} Maintenance Plan.

First, emissions inventories for attainment or maintenance plans are generally developed for the entire nonattainment area. For the Las Vegas Valley PM_{10} Maintenance Plan, Clark County DAQ developed emissions

[18] The 90 series rules include Clark County AQR section 90 ("Fugitive Dust from Open Areas and Vacant Lots"), section 91 ("Fugitive Dust from Unpaved Roads, Unpaved Alleys and Unpaved Easement Roads"), section 92 ("Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards"), section 93 ("Fugitive Dust from Paved Roads & Street Sweeping Equipment"), and section 94 ("Permitting & Dust Control for Construction Activities").

[19] In this context, the design value at each monitoring site refers to the first-, second-, third-, or fourth-highest measured concentration (depending on the frequency of monitoring) over a three-year period. The highest design valley among the monitoring sites determines the design value for the nonattainment area. A design value for a given year reflects the data for that year and the previous two years. For example, a design value for 2002 reflects 2000–2002 data.

[20] *See* population figures in table 4–1 of the Las Vegas Valley PM_{10} Maintenance Plan.

[21] *See* section 4.3 of the Las Vegas Valley PM_{10} Maintenance Plan for wind and rainfall data in Las Vegas Valley.

[22] PM_{10} precursor emissions may also be required depending upon the contribution of secondarily-formed particulate matter to ambient PM_{10} concentrations. As discussed in our proposed approval of the Las Vegas Valley PM_{10} Attainment Plan, 68 FR 2958 (January 22, 2003), Clark County determined, based on analyses of inventories (see chapter 4, section 4.2.1 of the Attainment Plan) and Chemical Mass Balance modeling, that secondary particulate contributes less than significant amounts to ambient PM_{10} concentrations. Therefore, PM_{10} precursors, including oxides of nitrogen, sulfur dioxide and volatile organic compounds, are not included in the Las Vegas Valley PM_{10} Maintenance Plan, and we find their absence acceptable.

inventories for a subset of the nonattainment area referred as to the BLM disposal area.[23] See figure 1–1 in the Las Vegas Valley PM_{10} Maintenance Plan for a map showing the BLM disposal area in relation to the Las Vegas Valley PM_{10} nonattainment area. EPA accepted the BLM disposal area as the geographic basis for the emissions inventories in the Las Vegas Valley PM_{10} Attainment Plan (see 68 FR 2954, at 2958 (January 22, 2003), and we do so again for the Las Vegas Valley PM_{10} Maintenance Plan. The BLM disposal area remains an appropriate geographic basis for air quality planning purposes because more than 99 percent of the population within the nonattainment area lives within BLM disposal area, more than 98 percent of the vehicle miles traveled within the nonattainment area occurs within the BLM disposal area, and nearly all of the anthropogenic sources within the nonattainment area are located within the BLM disposal area.

Furthermore, most of the area within the nonattainment area but outside the BLM disposal area lies under the jurisdiction of the federal government, and all lands controlled by the federal government outside the BLM disposal area are to remain in their native or managed state. The disposal area boundary can only be changed by an act of Congress. Continued reliance on the BLM disposal area for air quality planning purposes was confirmed in 2007 by a PM_{10} monitoring study conducted by Clark County DAQ under which samplers were deployed outside the BLM disposal area. No violations were recorded. We note that, while the inventory corresponds to the BLM disposal area, the regulations adopted by Clark County DAQ to address PM_{10} sources apply to the entire PM_{10} nonattainment area.

Second, as to the year selected for attainment inventory purposes, Clark County DAQ selected year 2008 as the year for the attainment inventory in the Las Vegas Valley PM_{10} Maintenance Plan. Emissions during year 2008 are reflected in three three-year periods that could be used to evaluate whether the area is attaining the standard: 2006–2008, 2007–2009, and 2008–2010. In the latter two periods, the expected number of exceedances averaged over the relevant three-year period was less than 1.0, which reflects attainment conditions. The period 2006–2008 has an expected number of exceedances of 1.1, which represents a violation of the standard; however, the value of 1.1 reflects two exceedances for which Clark County DAQ has flagged as exceptional events. Under these circumstances, we do not believe that the violation calculated for the 2006–2008 period should preclude the selection of 2008 for the inventory and find its selection by Clark County DAQ to be acceptable.

Third, the emissions inventories developed by Clark County DAQ for the Las Vegas Valley PM_{10} Maintenance Plan reflect "design day" conditions. The specific day selected for emissions inventory purposes was April 15, 2008. Clark County DAQ selected that day based on a review of data from all of the PM_{10} monitoring sites that operated from 2008 through 2010 that showed April 15, 2008 to be the day during which the highest PM_{10} concentration not unduly affected by high-wind events was measured. We find the use of a design day inventory, and selection of April 15, 2008 as the specific day for the inventory, to be acceptable.

Fourth, as to comprehensiveness, we find that the emissions inventories in the maintenance plan to be comprehensive in that they include estimates of PM_{10} from all of the relevant source categories, which the plan divides among point sources,[24] nonpoint sources,[25] on-road mobile sources, nonroad mobile sources, and emission reduction credits. *See* table 6–2 of the Las Vegas Valley PM_{10} Maintenance Plan for a summary of the attainment inventory (2008), as well as future year emissions projections for years 2015 and 2023. Appendix A to the PM_{10} Maintenance Plan contains source-category-specific descriptions of emission calculation procedures and sources of input data.

Table 2 below summarizes the attainment inventory (for 2008) in the Las Vegas Valley PM_{10} Maintenance Plan, and also summarizes the plan's projected emissions inventories for an interim year (2015) and the maintenance plan's horizon year (2023). Based on the estimates in table 2, the nonpoint category of emissions accounted for nearly 99% of the PM_{10}, with wind erosion from vacant lands making up 62%, wind erosion from construction making up 26%, and paved road dust and construction emissions each making up 4% of the total PM_{10} inventory for 2008.

TABLE 2—TOTAL DAILY LAS VEGAS VALLEY PM_{10} EMISSIONS, 2008, 2015, AND 2023

Category	Subcategory	PM_{10} (tons per day)[a]		
		2008	2015	2023
Point		2.19	2.60	2.88
Nonpoint	Wind Erosion (Vacant Lands)	439.05	288.16	122.77
	Wind Erosion (construction)	183.97	217.70	249.21
	Construction	30.93	37.69	41.22
	Paved Road	30.85	38.04	48.78
	Unpaved Road	5.84	6.51	7.49
	Other	6.59	7.24	7.89
On-Road Motor Vehicles		3.08	2.52	2.75
Nonroad Mobile Sources		3.74	2.95	1.94
Emission Reductions Credits		0.31	0.31	0.31
Totals		706.55	603.72	485.24

[a] Emissions correspond to the BLM disposal Area portion of the Las Vegas Valley nonattainment area and reflect design day conditions.
Source: Derived from estimates in table 6–2 of the Las Vegas Valley PM_{10} Maintenance Plan.

[23] The Las Vegas Valley PM_{10} Maintenance Plan explains that most of the land in Nevada is under federal jurisdiction, and most of the federal land is managed by the Bureau of Land Management (BLM). In 1998, Congress passed the Southern Nevada Public Land Management Act, which allowed BLM to sell, trade, or lease public land within a specific area around Las Vegas. There was an amendment to the boundary for this area in 2003, and minor adjustments thereafter. The area currently comprises approximately 327,000 acres and is known as the BLM disposal area.

[24] "Point sources" refer to those stationary source facilities that are required to report their emissions to Clark County DAQ or NDEP.

[25] "Nonpoint sources" refer to those stationary and area sources that fall below point source reporting levels and that are too numerous or small to identify individually.

Lastly, we reviewed the methods, factors, and assumptions used by Clark County DAQ to develop the emissions inventories in the Las Vegas Valley PM_{10} Maintenance Plan to ensure that the inventories are consistent with EPA's most recent guidance for such inventories. As noted above, Clark County DAQ's inventory is divided into five broad categories (point sources, nonpoint sources, on-road mobile sources, nonroad mobile sources, and emission reduction credits). Multiple subcategories of emissions are calculated within each of these broad categories.

For point sources, Clark County DAQ based the inventory estimates on source-reported actual 2008 emissions data. For nonpoint or area wide sources, Clark County calculated emissions based on county-wide reported data for fuel usage, product sales, population, employment data, land area, and other parameters covering a wide range of activities. The largest emission sources for the PM_{10} inventory, wind erosion from construction and wind erosion from vacant lands, are included in nonpoint emissions. These two source categories contribute over 80% of the total PM_{10} emissions in 2008. Emission factors for windblown fugitives were developed based on a series of wind-tunnel studies conducted by University of Nevada, Las Vegas (UNLV). These emission factors were combined with estimates of vacant land and developed land from the Clark County Department of Comprehensive Planning (DCP)'s Geographic Integrated Land Use Information System (GILIS).

The nonroad mobile source category includes aircraft, boats, and off-road vehicles and equipment used for construction, farming, commercial, industrial, and recreational activities. With respect to such sources, Clark County DAQ used EPA's nonroad emissions model NONROAD2008a, the current version of the model at the time the plan was created. The model includes both emissions factors and default county level population and activity data. The model estimates both emissions factors and emissions. This includes more than 80 basic and 260 specific types of non-road equipment, and further stratifies equipment by horsepower rating and fuel type. The model has default estimates, variables and factors used in the calculations. No local data sets were available for Clark County, therefore only model defaults were used.

The on-road mobile source category consists of trucks, automobiles, buses, and motorcycles. The on-road emissions inventory estimates in the Las Vegas Valley PM_{10} Maintenance Plan were prepared by Clark County DAQ using EPA's Motor Vehicle Emissions Simulator (MOVES2010a) model and AP–42. The vehicle miles traveled were developed from vehicle activity data from the Regional Transportation Commission of Southern Nevada (RTC) using the transportation demand model, TransCAD.

The on-road emissions estimates for the Las Vegas Valley PM_{10} Maintenance Plan assumed the implementation of the federal heavy-duty diesel rule, limits to Reid Vapor Pressure (RVP) of 9 pounds per square inch (PSI) with a 1.0 psi waiver for ethanol-blended fuels, the phase-in of federal tier 2 motor vehicle emission standards, and the continuation of the SIP-approved enhanced vehicle inspection and maintenance (I/M) program in the urban areas of Clark County.[26]

Based on our review of the emissions inventories (and related documentation) from the Las Vegas Valley PM_{10} Maintenance Plan, we find that the inventory for 2008 is comprehensive, that the methods and assumptions used by Clark County to develop the emission inventory are reasonable, and that, therefore, the 2008 inventory reasonably estimates actual PM_{10} emissions in an attaining year. Moreover, we find that the emissions inventory in the PM_{10} Maintenance Plan reflects the latest planning assumptions and emissions models available at the time the plan was developed, and provides a comprehensive and reasonably accurate basis upon which to forecast PM_{10} emissions for years 2015 and 2023.

2. Maintenance Demonstration

Section 175A(a) of the CAA requires a demonstration of maintenance of the NAAQS for 10 years after redesignation. A state may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future anticipated mix of sources and emission rates will not cause a violation of the NAAQS. *See* Calcagni memo, pages 9 through 11.

The Las Vegas Valley PM_{10} Maintenance Plan includes emissions inventory projections for 2015 and 2023 and corresponding estimates of future-year design values to demonstrate maintenance through 2023. In doing so, Clark County DAQ relies on "rollback," the scaling of measured concentrations proportional to emissions, with conservative assumptions for the rollback concentration target and for the background concentration. In this case, Clark County DAQ predicted future year design values by adjusting a 2008 design value by the proportional change in overall PM_{10} emissions from the attainment inventory (2008) relative to the inventories for the future years (2015 and 2023), taking into account a background level (on the design value day) of approximately 40 $\mu g/m^3$. We find Clark County DAQ's use of a "rollback" type of analysis appropriate in this case given that ambient PM_{10} concentrations in Las Vegas Valley are driven primarily by ground-level direct PM_{10} emissions (in particular fugitive dust) with generally consistent dispersion characteristics.

The foundation for the maintenance demonstration is the emissions projections for year 2015 and 2023 because, using the rollback method, the predicted future year design values will remain below the attainment-year design value (and thus below the NAAQS) if the emissions projections for the future years are less than the attainment-year inventory. In this case, Clark County DAQ identified 98 $\mu g/m^3$ as the design value for 2008 (40 $\mu g/m^3$ of which represents the background as noted above). The design value of 98 $\mu g/m^3$ excludes two exceedances measured in Las Vegas Valley in 2008 that were flagged and documented by Clark County DAQ as exceptional events. EPA has not taken action to concur, or not to concur, on the flagged exceedances, and if the two exceedances were taken into account (in determining the design value rather than being excluded), the design value for 2008 would be 123 $\mu g/m^3$, rather than 98 $\mu g/m^3$. Regardless of whether the 2008 design value is to be 123 $\mu g/m^3$ or 98 $\mu g/m^3$, the general principle still applies because both design values are well below the 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$. Namely, if the future-year emissions projections remain below the emissions estimated for the attainment year, then future-year concentrations should remain below the design value for the attainment year and thus well below the NAAQS.

Given the importance of the future-year emissions projections, EPA

[26] The EPA's most recent action on Nevada's I/M program updated the corresponding State statutes and rules. 73 FR 38124 (July 3, 2008).

reviewed the methods and assumptions used by Clark County DAQ to adjust the attainment-year (2008) emissions inventory to develop emissions projections for 2015 and 2013, with particular attention paid to those source categories that contribute most to the overall inventory. The documentation for Clark County DAQ's emissions projections are found in appendix A ("Technical Support Document") to the Las Vegas Valley PM_{10} Maintenance Plan.

One of the principle assumptions on which the maintenance plan is based is the continued implementation of Clark County's fugitive dust rules, particularly the 90 series rules (i.e., sections 90 through 94). As approved into the SIP, these rules, other than section 94, apply within the "PM_{10} nonattainment area." Redesignation to attainment would presumably have undercut continued implementation of the rules. However, Clark County has recently amended the rules to apply within a PM_{10} nonattainment area or an area subject to a PM_{10} maintenance plan, to ensure continued applicability after the area is redesignated attainment, and thus to be consistent with the assumptions of the maintenance demonstration in the Las Vegas Valley PM_{10} Maintenance Plan. Because EPA cannot redesignate a nonattainment area to attainment without approval of a maintenance plan, see CAA section 107(d)(3)(E)(4), Clark County's extension of applicability of the fugitive dust rules to areas subject to a maintenance plan ensures continued implementations of the rules after redesignation. In section VI of this document, we are proposing to approve the amended fugitive dust rules as a part of this action.

As described in appendix A to the maintenance plan, Clark County DAQ relied primarily on growth factors generated by EPA's Economic Growth Analysis System, Version 5 (EGAS); however, population forecasts were also used to estimate future-year emissions or activity throughput where applicable. With respect to population forecasts, Clark County DAQ relied on the most recent forecasts developed by the Center for Business and Economic Research (CBER) at the University of Nevada, Las Vegas (UNLV) using 2010 U.S. Census data. CBER forecasts a population increase from 2008 to 2015 of 8.6% and a population increase from 2008 to 2023 of 25%.[27] Examples of source categories for which population forecasts were used to develop the emissions projections include construction, wind erosion, and unpaved road sectors. We find this approach to be acceptable.

While EGAS growth factors were used for many source categories, other than those driven by population, Clark County DAQ declined to use EGAS factors for certain sources or source categories if more accurate local data were available. These source and source categories and related data sources include Nellis Air Force Base; fuel consumption projections from the U.S. Energy Information Agency; Union Pacific railroad operations; and vehicle miles traveled (VMT) projections from the Regional Transportation Commission of Southern Nevada (RTC) for use in estimating entrainment of PM_{10} from vehicle travel over paved roads.[28] Clark County DAQ also included banked emissions reduction credits (ERCs) for 2015 and 2023 in the event that the ERCs are used for the purposes of issuing permits for new or modified stationary sources in the air quality planning area.[29] We find these data sources to be appropriate for use in developing emissions projections for the maintenance plan.

Representing approximately 62% of the overall inventory, wind erosion over vacant lands represents the single largest source category in terms of its contribution to the overall PM_{10} inventory for year 2008 for the BLM disposal area. Clark County DAQ estimated that emissions from this category would decline from approximately 440 tons per day in 2008 to 290 tons per day by 2015 and then to 123 tons per day by 2023. Given this significant predicted decrease in emissions relative to existing conditions, EPA reviewed in detail the assumptions and basis for these forecasts.

As described in section 5.2 of appendix A to the Las Vegas Valley PM_{10} Maintenance Plan, the emissions projections for wind erosion from vacant lands were made using emissions factors that were developed based on a series of wind-tunnel studies conducted by UNLV, combined with soil inventory data based on satellite imagery and estimates of vacant land and developed land from the Clark County Department of Comprehensive Planning (DCP's) Geographic Integrated Land Use Information System (GILIS), adjusted over time based on a vacant land consumption rate of approximately 3,400 acres per year and projected population growth rates. The rate for vacant land consumption from 2011 to 2023 is projected to be approximately 23% less than the 30-year average vacant land consumption rate (approximately 4,400 acres per year). The decrease in emissions projected for the wind erosion over vacant lands reflects the reduction in total disturbed unstable lands within the BLM disposal area from approximately 10,100 acres in 2008 to 8,200 acres in 2015 and then to 6,100 acres in 2023. We believe Clark County DAQ's approach to projecting emissions from this source category to be reasonable and find that projected decrease in emissions from this source category is logical given the extent to which the lands within the BLM disposal area are already developed or remain as native desert.

Based on our review described above, we find that the methods, growth factors, and assumptions used by Clark County DAQ to project emissions in 2015 and 2023 based on the attainment inventory for 2008 are reasonable. Given that the projections (summarized in Table 2 above) show future emissions in 2015 (603.72 tons per day) and 2023 (485.24 tons per day) to be well below those in 2008 (706.55 tons per day), we find that the projections provide an adequate basis to demonstrate maintenance of the PM_{10} NAAQS within the Las Vegas Valley area through 2023. Also, as described further in section V.D.7 of this document, Clark County DAQ has chosen to include "safety margins" in the motor vehicle emissions budgets for 2015 (90.63 tons per day) and 2023 (78.29 tons per day), but we find that the overall emissions projections, including the safety margins for the budgets, for 2015 (694.35 tons per day) and 2023 (563.53 tons per day) remain below those in 2008 (706.55 tons per day), and thus, the safety margins are consistent with maintenance of the NAAQS through 2023.

Lastly, we note that, under CAA section 175A(a), a maintenance plan must provide for maintenance of the NAAQS in the area "for at least 10 years after the redesignation." Although final EPA action on this proposed redesignation will not occur until year 2014, we find that the Las Vegas Valley PM_{10} Maintenance Plan satisfies the requirement to provide for maintenance of the NAAQS for at least 10 years after redesignation, which in this case, means through 2024, because (1) significant emissions controls (e.g. Clark County's fugitive dust regulations) remain in place and will continue to provide reductions that keep the area in

[27] *See* page 2–1 of appendix A ("Technical Support Document") to the Las Vegas Valley PM_{10} Maintenance Plan.

[28] *See* page 4–13 of appendix A ("Technical Support Document") to the Las Vegas Valley PM_{10} Maintenance Plan.

[29] *See* Las Vegas Valley PM_{10} Maintenance Plan, section 6.4.4.

attainment; (2) the 2023 projected emission inventory is well below the 2008 attainment year level and is expected to decline or remain stable during the 2023 to 2024 period due to continued developed of lands within the BLM disposal area and corresponding reduction in wind erosion over vacant disturbed land; and (3) air quality concentrations are well below the 24-hour PM_{10} NAAQS, and, when coupled with the emission inventory projections through 2023, clearly show it would be very unlikely for a PM_{10} violation to occur in 2024.

For the above reasons, EPA believes that the area will continue to maintain the 24-hour PM_{10} NAAQS at least through 2024 and that the Las Vegas Valley PM_{10} Maintenance Plan provides for maintenance for a period of ten years following redesignation. Thus, if EPA finalizes its proposed approval of the Las Vegas Valley PM_{10} Maintenance Plan in 2014, it is based on a showing, in accordance with section 175A, that the Las Vegas Valley PM_{10} Maintenance Plan provides for maintenance for at least ten years after redesignation.

3. Monitoring Network

Continued ambient monitoring of an area is generally required over the maintenance period. As discussed in section V.A. of this document, PM_{10} is currently monitored by Clark County DAQ within the Las Vegas Valley PM_{10} nonattainment area. In the Las Vegas Valley PM_{10} Maintenance Plan (see section 6–8 of the plan), Clark County commits to continue operation of an air quality monitoring network that meets or exceeds the minimum monitoring requirements and will be relying on ambient PM_{10} monitoring to verify continued attainment of the 24-hour PM_{10} NAAQS. The Las Vegas Valley PM_{10} Maintenance Plan also notes that a review of the entire monitoring network will be undertaken annually as required by federal regulations.[30] We find Clark County's commitment for continued ambient PM_{10} monitoring as set forth in the Las Vegas Valley PM_{10} Maintenance Plan to be acceptable.

4. Verification of Continued Attainment

Clark County has the legal authority to implement and enforce the requirements in the Las Vegas Valley PM_{10} Maintenance Plan. This includes the authority to adopt, implement and enforce any emission control contingency measures determined to be necessary to correct 24-hour PM_{10} NAAQS violations. To verify continued attainment, Clark County commits in the PM_{10} Maintenance Plan to the continued operation of a PM_{10} monitoring network that meets EPA ambient air quality surveillance requirements.

Second, the transportation conformity process, which would require a comparison of on-road motor vehicle emissions that would occur under new or amended regional transportation plans and programs with the MVEBs in the Las Vegas Valley PM_{10} Maintenance Plan, represents another means by which to verify continued attainment of the 24-hour PM_{10} NAAQS in the Las Vegas Valley. Lastly, while not cited in the plan, Clark County must inventory emissions sources and report to EPA on a periodic basis under 40 CFR part 51, subpart A ("Air Emissions Reporting Requirements"). These emissions inventory updates will provide a third way to evaluate emissions trends in the area and thereby verify continued attainment of the NAAQS. These methods are sufficient for the purpose of verifying continued attainment.

5. Contingency Provisions

CAA section 175A(d) requires that maintenance plans include contingency provisions, as EPA deems necessary, to promptly correct any violations of the NAAQS that occur after redesignation of the area. Such provisions must include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned that were contained in the SIP for the area before redesignation of the area as an attainment area. In this instance, the Las Vegas Valley PM_{10} Maintenance Plan does not provide for the repeal or relaxation of any of the measures that contributed to attainment of the PM_{10} standard in Las Vegas Valley, and thus, the plan need not provide for any such measures to be reinstituted as a contingency in the event of an exceedance of the NAAQS.

Contingency provisions for maintenance plan purposes are distinguished from those generally required for nonattainment areas under section 172(c)(9) in that they are not required to be fully-adopted measures that will take effect without further action by the state in order for the maintenance plan to be approved. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. The maintenance plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific timeline for action by the State. As a necessary part of the plan, the State should also identify specific indicators or triggers, which will be used to determine when the contingency measures need to be implemented.

As required by section 175A of the CAA, Clark County has adopted a contingency plan to address possible future PM_{10} air quality problems. *See* section 6.9 of the Las Vegas Valley PM_{10} Maintenance Plan. As described in section 6.9 of the maintenance plan, Clark County DAQ intends to rely on its continuous ambient PM_{10} monitoring network to track PM_{10} concentrations and has selected a confirmed violation of the PM_{10} NAAQS, defined as more than one expected exceedance per year averaged over a three-year period, as the primary triggering mechanism. Clark County DAQ refers to the date sixty days from such a violation as the trigger date after which the contingency plan would go into effect.

Under the contingency plan, within 45 days of the trigger date, Clark County DAQ would notify EPA that an internal review process has begun to evaluate potential contingency measures. The list of potential contingency measures, not intended to be inclusive, includes:

(1) Implementing a new dust control permit requirement for short-term activities that disturb or have the potential to disturb soils that emit PM_{10}, such as mechanized weed abatement, fair, carnivals, Christmas tree and Halloween pumpkin lots, art sales;

(2) Conducting a comprehensive review and update of Clark County's Construction Activities Dust Control Handbook to increase the effectiveness of existing Best Management Practices (BMPs) and to identify new BMPs. Examples include: new management practices for soil-disturbing activities and practices for roadway and detention basin maintenance activities;

(3) Reviewing dust mitigation plan requirements in Clark County Rule 90 and 92, focusing on reducing acreage-trigger thresholds, incorporating additional mitigation plan criteria and lowering applicability thresholds for unpaved parking lots;

(4) Reassigning staff to provide additional field enforcement of the air quality regulations that control sources of fugitive dust emissions;

(5) Mapping construction activities during inspections to collect PM_{10} data to provide greater accuracy for calculating emissions from these activities;

(6) Developing a new dust control database to strengthen oversight of dust control permits and improve compliance; and

[30] EPA's requirements for annual review of monitoring networks are found at 40 CFR 58.10.

(7) Amending fugitive dust regulations to incorporate new technologies and measure for controlling emissions and prevent them from crossing property lines or causing a nuisance.

Within 90 days of the notification to EPA, Clark County DAQ has committed to send EPA an informational report outlining recommended actions. Clark County DAQ will then solicit public involvement and Clark County Board of Commissioners and/or the State Environmental Commission will hold public hearings, as necessary, to consider recommended contingency measures. Under the contingency plan, the selected contingency measures must be adopted and implemented within 18 months of the submittal of the informational report to EPA.

Based on our understanding of the contingency plan, as summarized above, we find that the contingency provisions of the Las Vegas Valley PM_{10} Maintenance Plan clearly identify specific contingency measures, contain tracking and triggering mechanisms to determine when contingency measures are needed, contain a description of the process of recommending and implementing contingency measures, and contain specific timelines for action. Thus, we conclude that the contingency provisions of the Las Vegas Valley PM_{10} Maintenance Plan are adequate to ensure prompt correction of a violation and therefore comply with section 175A(d) of the Act.

6. Subsequent Maintenance Plan Revisions

CAA section 175A(b) provides that States shall submit a SIP revision 8 years after redesignation providing for maintaining the NAAQS for an additional 10 years. The Las Vegas Valley PM_{10} Maintenance Plan includes a commitment to prepare and submit a revised maintenance plan eight years after redesignation to attainment. *See* section 6.10 of the Las Vegas Valley PM_{10} Maintenance Plan.

7. Motor Vehicle Emissions Budgets

Transportation conformity is required by section 176(c) of the CAA. Our transportation conformity rule (codified in 40 CFR part 93, subpart A) requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do so. Conformity to the SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

PM_{10} maintenance plan submittals must specify the maximum emissions of transportation-related PM_{10} emissions [31] allowed in the last year of the maintenance period, i.e., the motor vehicle emissions budgets (MVEBs). (MVEBs may also be specified for additional years during the maintenance period.) The MVEBs serve as a ceiling on emissions that would result from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble describes how to establish MVEBs in the SIP and how to revise the MVEBs if needed.

The maintenance plan submittal must demonstrate that these emissions levels, when considered with emissions from all other sources, are consistent with maintenance of the NAAQS. In order for us to find these emissions levels or "budgets" adequate and approvable, the submittal must meet the conformity adequacy provisions of 40 CFR 93.118(e)(4) and (5). For more information on the transportation conformity requirement and applicable policies on MVEBs, please visit our transportation conformity Web site at: *http://www.epa.gov/otaq/stateresources/transconf/index.htm.*

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Notifying the public of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and, (3) making a finding of adequacy or inadequacy. The process for determining the adequacy of a submitted MVEB is codified at 40 CFR 93.118(f).

On November 7, 2012, EPA announced the availability of the Las Vegas Valley PM_{10} Maintenance Plan with MVEBs and a 30-day public comment period on EPA's Adequacy Web site at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm.* The comment period for this notification ended on December 7, 2012, and EPA received no comments from the public. Note, however, that a second mechanism is also provided for EPA review and public comment on MVEBs, as described in 40 CFR 93.118(f)(2). This mechanism provides for EPA's review of the adequacy of an implementation plan MVEB simultaneously with its review and approval and/or disapproval of the applicable SIP revision itself. In this action, EPA used the web notification discussed above to solicit public comments on the adequacy of Clark County's MVEBs, but is taking comment on the approvability of the submitted MVEBs through this proposed rule.

The Las Vegas Valley PM_{10} Maintenance Plan contains design-day PM_{10} MVEBs for the BLM disposal area portion of the Las Vegas Valley PM_{10} nonattainment area for the last year of the maintenance period (2023), as well as the 2008 base year (attainment inventory) and an interim year (2015). Table 3 presents the MVEBs from the Las Vegas Valley PM_{10} Maintenance Plan and shows how they are derived. Specifically, the MVEBs represent the sum of certain source categories or subcategories from the emissions inventories prepare for the Las Vegas Valley PM_{10} Maintenance Plan plus a safety margin. The applicable source categories or subcategories included in the MVEBs include vehicle emissions (including exhaust, brake wear, and tire wear), paved road dust, unpaved road dust, and three construction-related source subcategories (road construction dust, construction track-out, and wind erosion associated with road construction). The safety margins represent the difference between the sum of the emissions from the source categories or subcategories described above and the PM_{10} MVEB currently in effect in Las Vegas Valley under the approved Las Vegas Valley PM_{10} Attainment Plan (i.e., 141.41 tons per day).

[31] Transportation-related emissions of volatile organic compounds (VOC) and/or oxides of nitrogen (NO_X) emissions must also be specified in PM_{10} areas if EPA or the state finds that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the metropolitan planning organization (MPO) and the U.S. Department of Transportation (DOT), or if the applicable SIP revision or SIP revision submittal establishes an approved or adequate budget for such emissions as part of the RFP, attainment or maintenance strategy. 40 CFR 93.102(2)(iii). Neither of these conditions apply to the Las Vegas Valley PM_{10} nonattainment area, and thus, the Las Vegas Valley PM_{10} Maintenance Plan establishes MVEBs only for PM_{10}, not for PM_{10} precursors.

TABLE 3—MOTOR VEHICLE EMISSIONS BUDGETS IN THE LAS VEGAS VALLEY PM_{10} MAINTENANCE PLAN

Category	Design-day emissions (PM_{10}, tons per day) [a]		
	2008	2015	2023
Vehicle (exhaust, brake wear, and tire wear)	3.08	2.52	2.75
Paved Road Dust	30.85	38.04	48.78
Unpaved Road Dust (public)	0.28	0.32	0.36
Road Construction Dust	1.54	1.87	2.05
Construction Track-Out	0.25	0.30	0.33
Wind Erosion (road construction)	6.53	7.73	8.85
Subtotals	42.53	50.78	63.12
Safety Margin	98.88	90.63	78.29
Totals	141.41	141.41	141.41

[a] Corresponds to the BLM disposal area portion of Las Vegas Valley.
Source: Derived from tables 7–1, 7–2, and 7–3 in section 7.0 in the Las Vegas Valley PM_{10} Maintenance Plan.

The MVEBs in the Las Vegas Valley PM_{10} Maintenance Plan reflect: (1) On-road motor vehicle emission factors from EPA's current motor vehicle emissions factor model (MOVES); (2) fugitive paved and unpaved road and road construction emission factors from *Compilation of Air Pollutant Emission Factors* (AP–42);[32] and (3) updated vehicle activity data from the Regional Transportation Commission of Southern Nevada's (RTC's) Clark County Activity-Based Travel Demand Simulation Model (TransCAD) transportation modeling system.

As described above, the Las Vegas Valley PM_{10} Maintenance plan uses a 2008 attainment-year emissions inventory to project emissions to 2015 and 2023 and show continually decreasing emissions, thereby demonstrating maintenance of the NAAQS through 2023. As shown in table 2 of this document, the Las Vegas Valley PM_{10} Maintenance Plan estimates that design-day emissions in the BLM disposal area portion of the Las Vegas PM_{10} nonattainment area will decrease from approximately 710 tons per day in 2008 to approximately 600 tons per day in 2015 and will then further decrease to approximately 490 tons per day in 2023.

A state may choose to apply a safety margin under our transportation conformity rule so long as such margins are explicitly quantified in the applicable plan and are shown to be consistent with attainment or maintenance of the NAAQS (whichever is relevant to the particular plan). See 40 CFR 93.124(a). For the Las Vegas Valley PM_{10} Maintenance Plan, Clark County DAQ increased the motor vehicle related emissions estimates (i.e., vehicle, paved and unpaved road dust, construction track-out, and road construction (including related wind erosion) to equal 141.41 tons per day, which is the 2006 attainment-year MVEB approved in connection with the Las Vegas Valley PM_{10} Attainment Plan. The Las Vegas Valley PM_{10} Maintenance Plan demonstrates continued maintenance with the additional safety margins by showing that, with the safety margins added to the estimates for 2015 and 2023, the overall emissions in 2015 (694.35 tons per day) and 2023 (563.53 tons per day) would still be less than the emissions inventory for the attainment year 2008 (706.55 tons per day). See table 7–3 of the Las Vegas Valley PM_{10} Maintenance Plan.

EPA is proposing to approve the MVEBs for 2008, 2015 and 2023, shown in table 3 above, as part of our approval of Las Vegas Valley PM_{10} Maintenance Plan. EPA has determined that the MVEB emission targets are consistent with emission control measures in the SIP and are consistent with maintenance of the 24-hour PM_{10} standard in Las Vegas Valley through 2023. The details of EPA's evaluation of the MVEBs for compliance with the budget adequacy criteria of 40 CFR 93.118(e) are provided in a separate memorandum[33] included in the docket of this rulemaking. Because the budgets EPA approved in 2004 are the same level as the budgets EPA is proposing to approve in this action, if EPA approves the MVEBs in the final rulemaking action, it would not change the budgets currently in use for transportation conformity determinations for Clark County. Any and all comments on the approvability of the MVEBs should be submitted during the comment period stated in the **DATES** section of this document.

VI. Evaluation of Revisions to Clark County Fugitive Dust Rules

As noted above, the Las Vegas Valley PM_{10} Maintenance Plan relies on the continued application of the county's fugitive dust rules, particularly sections 90 through 94; however, these rules, with the exception of section 94, as approved into the SIP, apply within the "PM_{10} nonattainment area (hydrographic basin 212)." Section 94 applies county-wide, not just in the PM_{10} nonattainment area. Redesignation of the Las Vegas Valley PM_{10} nonattainment area to attainment, as proposed herein, could undermine continued applicability and enforceability of the rules. To address this issue, the Clark County Board of County Commissioners recently adopted revisions to the rules to clarify their continued applicability within both a "PM_{10} nonattainment area" and an "area subject to a PM_{10} maintenance plan."

Clark County section 90 specifies requirements and measures to be implemented within the nonattainment area (and Apex Valley) for control of fugitive dust emissions from open areas and vacant lots. Section 91 specifies requirements and measures to be implemented within the nonattainment area (and Apex Valley) for control of

[32] AP–42, *Compilotion of Air Pollutont Emission Foctors,* is the primary compilation of EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories, including paved roads. EPA released an update to AP–42 in January of 2011, which revised the equation for estimating paved road dust emissions based on an updated regression that included new emission tests results. Clark County DAQ used the updated AP–42 equation with local data on vehicle weight and silt loading data collected in 2003–2006 with Vehicle Miles Traveled (VMT) data from RTC's TransCAD model to estimate paved road emissions.

[33] *See* EPA memorandum dated October 28, 2013 titled, "Adequacy Documentation for Plan Motor Vehicle Emission Budgets in August 2012 Clark County PM_{10} Maintenance State Implementation Plan."

fugitive dust from unpaved roads, unpaved alleys, and unpaved easement roads. Section 92 specifies requirements and measures to be implemented within the nonattainment area (and Apex Valley) for control of fugitive dust from unpaved parking lots, material handling and storage yards, and vehicle and equipment storage yards, not otherwise regulated under Clark County section 94 ("Permitting & Dust Control for Construction Activities"). Section 93 specifies requirements and measures to be implemented within the nonattainment area (and Apex Valley) for control of fugitive dust from paved roads and street sweeping equipment.

EPA most recently approved section 90 at 71 FR 63250 (October 30, 2006); section 91 at 69 FR 32272 (June 9, 2004), section 92 at 71 FR 63250 (October 30, 2006); and section 93 at 71 FR 63250 (October 30, 2006). Relative to the existing SIP versions, as discussed above, the rules have been amended to ensure that the rules continue to apply once the area is redesignated to attainment for PM_{10}. The rules have also been amended to reflect changes in the name of the county's air pollution control district and to use the term "hydrographic area" instead of "hydrographic basin." Lastly, Clark County has amended section 92 to add an exemption from the paving requirement for new equestrian staging areas so long as the applicable performance standards in the rule are met. We find that these changes generally improve the SIP as well as providing the necessary support for the Las Vegas PM_{10} Maintenance Plan. Moreover, we find that the limited and qualified exemption from the paving requirement under Clark County section 92 for new equestrian staging areas would have no effect on continued maintenance of the PM_{10} standard in Las Vegas Valley and is acceptable.

NDEP's May 27, 2014 SIP revision submittal of amended Clark County fugitive dust rules also includes an amended version of section 41 ("Fugitive dust"). The most recent approval by EPA of Clark County section 41 was at 46 FR 43141 (August 27, 1981). This older fugitive dust rule establishes general fugitive dust requirements and measures applicable throughout Clark County but that are largely superseded with respect to construction activities by section 94 and, within the PM_{10} nonattainment area (and Apex Valley), by the specific measures and other requirements in sections 90 through 93. Section 41 also contains certain provisions related to off-road vehicle and motocross racing that apply only within the nonattainment area. The recent amendments adopted by the Clark County Board of County Commissioners ensure the continued applicability of the off-road vehicle and motocross-related provisions once the area is redesignated to attainment. Other changes relative to the SIP version include the deletion of provisions addressing vacant lots from which topsoil was removed prior to 1973 and the addition of provisions intended to clarify the conditions that the rule seeks to avoid through application of "reasonable precautions." Within Las Vegas Valley and Apex Valley, vacant lots are now addressed by the specific measures and other requirements in Clark County section 90. The other changes in section 41 generally improve the SIP as well as provide support for the Las Vegas Valley PM_{10} Maintenance Plan.[34]

Therefore, for the reasons discussed above, we find that Clark County fugitive dust rules sections 90 through 93, and 41, as amended by the Clark County Board of County Commissioners on April 15, 2014 (effective April 29, 2014) and submitted by NDEP on May 27, 2014, would not interfere with attainment or maintenance of any of the NAAQS and would provide necessary support for the Las Vegas Valley PM_{10} Maintenance Plan, and thus are approvable under CAA section 110(l).[35] As such, we propose to approve the amended Clark County fugitive dust rules as a revision to the Nevada SIP.

VII. Proposed Deletion of TSP Designation for Las Vegas Valley

A. General Considerations

Consistent with section 107(d)(4)(B), we have considered the continued necessity for retaining the remaining TSP area designations in Nevada, and as discussed below, we have decided that the TSP nonattainment designation for Las Vegas Valley (HA #212) is no longer necessary. As a result, we are proposing to delete it from the TSP table in 40 CFR 81.329.

To evaluate whether the TSP area designation should be retained or can be deleted, we have relied upon the final rule implementing the PM_{10} NAAQS (see 52 FR 24634, July 1, 1987), a policy memorandum on TSP redesignations (see memo dated May 20, 1992 from Joseph W. Paisie, Acting Chief, SO_2/Particulate Matter Programs Branch, EPA Office of Air Quality Planning and Standards, to Chief, Air Branch, Regions I–X, entitled "TSP Redesignation Request"), and our proposed and final rules establishing maximum allowable increases in concentrations (also known as "increments") for PM_{10} (see the proposed rule at 54 FR 41218, October 5, 1989, and the final rule at 58 FR 31622, June 3, 1993).

Based on the above references, we believe that the relevant considerations for evaluating whether the necessity of retaining the TSP area designations depend upon the status of a given area with respect to TSP and PM_{10}. For areas that are nonattainment for TSP but attainment for PM_{10}, we generally find that the TSP designations are no longer necessary and can be deleted when EPA (1) approves a State's revised PSD program containing the PM_{10} increments, (2) promulgates the PM_{10} increments into a State's SIP where the State chooses not to adopt the increments on their own, or (3) approves a State's request for delegation of PSD responsibility under 40 CFR 52.21(u). *See* 58 FR 31622, at 31635 (June 3, 1993).

For areas that are nonattainment for TSP and nonattainment for PM_{10}, an additional consideration is whether deletion of the TSP designations would automatically relax any emissions limitations, control measures or programs approved into the SIP. If such a relaxation would occur automatically with deletion of the TSP area designations, then we will not delete the designations until we are satisfied that the resulting SIP relaxation would not interfere with any applicable requirement concerning attainment, reasonable further progress (RFP), or maintenance of the NAAQS or any other requirement of the Clean Air Act in the affected areas. *See* section 110(l) of the Act.

In the case of Las Vegas Valley, we believe that the considerations for both types of areas described above are relevant because although Las Vegas Valley is nonattainment for PM_{10}, we are proposing to redesignate the area to attainment for PM_{10} in today's action. Thus, we must take into account both the potential for relaxation that would be inconsistent with continued maintenance of the PM_{10} NAAQS as well as protection of the PM_{10} increments (as applies in areas designated attainment or unclassifiable).

[34] As amended on April 15, 2014, section 41 (see subsection 41.2.3) continues to include outdated references to Clark County section 15, which was replaced by section 12 a number of years ago. We recommend that Clark County update section 41 with the correct references to the appropriate subsections of section 12.

[35] CAA section 110(l) provides, in relevant part, that EPA shall not approve a SIP revision if the SIP revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

B. Deletion of TSP Nonattainment Area Designation for Las Vegas Valley

With respect to protection of the PM_{10} increments, the TSP nonattainment designations are no longer necessary in Las Vegas Valley because we have approved Clark County's NSR regulations as satisfying the related PSD requirements. See 69 FR 54006 September 7, 2004.[36] We recognize that NDEP retains jurisdiction over certain types of sources in Clark County but note that EPA's PSD pre-construction permit program promulgated at 40 CFR 52.21 apply to those sources under a delegation agreement between NDEP and EPA. See 40 CFR 52.1485(b).

To ensure that deletion of the TSP nonattainment designation for Las Vegas Valley would not result in any automatic relaxations in SIP emissions limitations, control measures or programs that would interfere with attainment, RFP or maintenance of the NAAQS (including PM_{10}) or any other requirement of the Act, we reviewed the following portions of the Nevada SIP:

- The TSP portions of the Las Vegas Valley Air Quality Implementation Plan (AQIP) adopted in response to the CAA, as amended in 1977;
- State stationary source rules including NAC 445B.22017 ("Visible emissions: Maximum opacity; determination and monitoring of opacity") and NAC 445B.2203 ("Emissions of particulate matter: Fuel-burning equipment");
- Clark County stationary source rules, including section 26 ("Emission of visible air contaminants"), section 27 ("Particulate matter from process weight rate"), section 28 ("Fuel burning equipment"), section 30 ("Incinerators"), and section 42 ("Open burning"); and
- Clark County fugitive dust rules, including section 41 and sections 90 through 94, as proposed for approval herein (see section VI of this document).

Based on our review of the TSP provisions in the Las Vegas Valley AQIP and the various rules cited above, we find that none are contingent upon continuation of the TSP nonattainment designations, and thus deletion of the TSP designations would not automatically relax any standard. More specifically:

- The Las Vegas Valley AQIP relies primarily on fugitive dust controls, which are now codified in section 41 and sections 90 through 94, and for which applicability does not depend on TSP designations;
- State stationary source rules that apply to coal-fired power plants (i.e., the sources that fall under State jurisdiction in Clark County) contain percent opacity limits and PM_{10} limits for which the TSP designation is irrelevant;
- Clark County stationary source rules sections 26, 27, 28, 30, and 42 do not contain requirements for which the TSP area designation is relevant; and
- The applicability of the relevant portion of the Clark County rule section 41 ("Fugitive dust") and the other county fugitive dust rules sections 90 through 94 are expressed in terms of the designated boundaries of the PM_{10} nonattainment area (or area subject to a PM_{10} maintenance plan), and not in terms of the boundaries of the TSP area.

In summary, because the PSD PM_{10} increments apply in Las Vegas Valley and because the deletion of the TSP nonattainment designation for Las Vegas Valley would not automatically relax any emissions limitation or control measure in the Nevada SIP, we find that the TSP nonattainment designation is no longer necessary and can be deleted. Based on the above discussion and evaluation, therefore, we are proposing to delete the TSP nonattainment area designation for Las Vegas Valley (HA #212) from the "Nevada-TSP" table in 40 CFR 81.329.

VIII. Proposed Action and Request for Public Comment

Under CAA section 110(k)(3), and for the reasons set forth above, the EPA is proposing to approve NDEP's submittal dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada* (August 2012) ("Las Vegas Valley PM_{10} Maintenance Plan") as a revision to the Nevada SIP. The EPA finds that the maintenance demonstration showing how the area will continue to attain the 24-hour PM_{10} NAAQS for 10 years beyond redesignation, and the contingency provisions describing the actions that Clark County will take in the event of a future monitored violation, meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. The EPA is also proposing to approve the motor vehicle emissions budgets in the Las Vegas Valley PM_{10} Maintenance Plan (i.e., 141.14 tons per day in 2008, 2015, and 2023) because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

Second, under CAA section 107(d)(3)(D), we are proposing to approve NDEP's request, which accompanied the submittal of the maintenance plan, to redesignate the Las Vegas Valley PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard is in turn based on our proposed determination that the area has attained the 24-hour PM_{10} NAAQS, that relevant portions of the Nevada SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that Nevada has met all requirements applicable to the Las Vegas Valley PM_{10} nonattainment area with respect to section 110 and part D of the CAA, and based on our proposed approval as part of this action of the Las Vegas Valley PM_{10} Maintenance Plan. Our proposed determination that the area has attained the 24-hour PM_{10} NAAQS is based in part on our concurrence with Clark County DAQ that the exceedances monitored in Las Vegas Valley on July 3, 2011 were caused by a high wind exceptional event and our related exclusion of the exceedances from the attainment determination.

Third, EPA is proposing to approve revisions to Clark County fugitive dust rules sections 41, and 90 through 93 that were submitted on May 27, 2014 as a revision to the Nevada SIP because we find that they ensure continued implementation of the rules after redesignation of Las Vegas Valley to attainment and because they meet all other applicable requirements. Proposing to do so is consistent with the assumptions upon which the maintenance plan is based.

Lastly, EPA is proposing to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

IX. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not

[36] More recently, EPA has taken limited approval and limited disapproval of amendments to Clark County's NSR regulations. 77 FR 64039 (October 18, 2012). In our 2012 final rule, we identified a number of deficiencies in the Clark County's NSR regulations, but none of these deficiencies relate directly to protection of the PM_{10} increments.

impose any additional regulatory requirements on sources beyond those imposed by State law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely propose to approve a State plan and redesignation request as meeting Federal requirements and do not impose additional requirements beyond those by State law. For these reasons, these proposed actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Nonetheless, EPA has discussed the proposed action with the one Tribe, the Las Vegas Paiute Tribe, located within the Las Vegas Valley PM_{10} nonattainment area.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 27, 2014.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2014–16575 Filed 7–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[EPA–HQ–OAR–2008–0218; FRL–9914–06–OAR]

RIN 2060–AP26

Revisions to National Emission Standards for Radon Emissions From Operating Mill Tailings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency is announcing an extension of the public comment period for the Notice of Proposed Rulemaking (NPRM) requesting public comment and information on revisions to the EPA's "National Emission Standards for Radon Emissions from Operating Mill Tailings". The EPA published the NPRM on May 2, 2014 in the **Federal Register**, which included a request for comments on or before July 31, 2014. The purpose of this action is to extend the public comment period an additional 90 days.

DATES: Written comments on the proposed rule published on May 2, 2014 (79 FR 25388) must be received on or before October 29, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0218, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2008–0218, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies.

Hand Delivery: In person or by courier, deliver comments to: EPA Docket Center, Docket ID No. EPA–HQ–OAR–2008–0218, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0218. The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the

EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Reid J. Rosnick, EPA Office of Radiation and Indoor Air, (202) 343–9290, *rosnick.reid@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. What should I consider as I prepare my comments for the EPA?

1. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number, subject heading, **Federal Register** date and page number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow it to be reproduced.
- Illustrate your concerns with specific examples and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

B. How can I get copies of this document, the proposed rule and other related information?

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0218. The EPA has also developed a Web site for the NPRM at: *www.epa.gov/radiation/neshaps/subpartw/rulemaking-activity.html.* Please refer to the original **Federal Register** notice on the NPRM for detailed information on accessing information related to the notice.

In response to requests for an extension, we are extending the public comment period for this NPRM through October 29, 2014. This extension will provide the public additional time to provide comment on updating this standard.

Dated: July 11, 2014.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2014–17135 Filed 7–18–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; DA 14–944]

Wireline Competition Bureau Announces Posting of Broadband Data From Urban Rate Survey and Seeks Comment on Calculation of Reasonable Comparability Benchmark for Broadband Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) announces the posting of the fixed broadband services data collected in the 2013 urban rate survey, and explanatory notes regarding the data, on the Commission's Web site. The Bureau also proposes a specific methodology for calculating the reasonable comparability benchmark for fixed broadband services which would result in a broadband benchmark that ranges from $68.48 to $71.84 for services meeting the current broadband performance standard of 4 Mbps downstream/1 Mbps upstream, with the specific benchmark depending on the associated usage allowance.

DATES: Comments are due on or before August 20, 2014.

ADDRESSES: Interested parties may file comments on or before August 20, 2014. All pleadings are to reference WC Docket No. 10–90. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies, by any of the following methods:

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Suzanne Yelen, Wireline Competition Bureau at (202) 418–0626 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Wireline Competition Bureau's Public Notice (Notice) in WC Docket No. 10–90; DA 14–944, released June 30, 2014. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via Internet at *http://www.bcpiweb.com.*

1. The Wireline Competition Bureau (Bureau) announces the posting of the fixed broadband services data collected in the 2013 urban rate survey, and explanatory notes regarding the data, on the Commission's Web site at *http://www.fcc.gov/encyclopedia/urban-rate-survey-data.* The Bureau (Bureau) also proposes a specific methodology for calculating the reasonable comparability benchmark for fixed broadband services. In the *USF/ICC Transformation Order,* the Commission required that as a condition of receiving Connect America Fund support, recipients must offer voice and broadband services in supported areas at rates that are reasonably comparable to rates for similar services in urban areas. The methodology proposed here would result in a broadband benchmark that ranges from $68.48 to $71.84 for services meeting the current broadband performance standard of 4 Mbps downstream/1 Mbps upstream, with the specific benchmark depending on the associated usage allowance.

2. Consistent with longstanding Commission precedent for the voice comparability benchmark, we will

compute the broadband comparability benchmark based upon a national average. Indeed, the Commission made clear that it expected the Bureau to use a national urban average.

3. The Bureau Staff Report included herein discusses three potential methods for determining the average urban rate using the data collected in the Survey: Simple rate statistics for specified subsamples; an average rate for offerings meeting a minimum level of service; and regression analysis. The Staff Report also presents the average plus two standard deviations for each approach, thus showing a potential reasonable comparability benchmark for broadband service under each approach. For illustrative purposes, the Staff Report also presents the relevant calculations if the minimum performance obligations were modified as proposed recently by the Commission.

4. The first approach calculates the average using a subsample of observations based solely on download speed, without regard to usage or upstream speeds. The second approach calculates the average by identifying the subset of observations that meet or exceed a minimum service level, and then for each provider that is captured in that sub-sample, computing the average based on the lowest rate offered by that provider that meets or exceeds the specified service level. The third approach uses a simple weighted linear regression model that takes into account the impact of three dimensions of service on rates: upload speed, download speed, and usage allowance, if any. We summarize below the results under the three approaches.

Method	Speed	Usage allowance	Average	Average + 2 standard deviations
Service Offerings Meeting 3 to <5 Mbps Downstream.	3 to <5 Mbps/any upload speed	Any	$47.48	$73.22
Service Offerings Meeting or Exceeding a Minimum Service Level (Upstream, Downstream, Usage).	4 Mbps/1 Mbps	100 GB	54.54	82.00
Linear Regression	4 Mbps/1 Mbps	100 GB	44.74	68.48
	4 Mbps/1 Mbps	250 GB	46.76	70.50
Analysis	4 Mbps/1 Mbps	unlimited	48.10	71.84

5. We propose to use the weighted linear regression model to calculate the average urban rate. Although the regression analysis is more complex than the other methods identified in the Staff Report, regression analysis is well suited to take into account the differences in speed and usage allowance among the service offerings in the sample (and thus reducing the likelihood of having the rates for dramatically higher-speed services increase the benchmark for lower-speed services). Further, we propose to use a subsample of data points to develop the regression, specifically, those data points with download speeds less than or equal to 15 Mbps. We propose to adopt a separate benchmark for services with differing usage levels. Thus, the reasonable comparability benchmark for a high-cost recipient offering a 4 Mbps/1 Mbps/100 GB offering would be $68.48; if that high-cost recipient chose to meet the Commission's broadband performance obligations with a 4 Mbps/1 Mbps/unlimited usage offering, its reasonable comparability benchmark would be $71.84. We seek comment on these proposals.

6. To the extent parties believe one of the other approaches to determining an average of the data collected in the Survey is preferable, they should explain with specificity the benefits of adopting an alternative approach. Is there some other method of calculating the average urban rate that would better account for the differences in speed and usage allowance among the service offerings?

Procedural Matters

A. Paperwork Reduction Act

7. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

B. Filing Requirements

8. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments are to reference WC Docket No. 10–90 and DA 14–944, and may be filed by paper or by using the Commission's Electronic Comment Filing System (ECFS).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/*.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.s
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

9. In addition, we request that one copy of each pleading be sent to each of the following:

(1) Jay Schwarz, Industry Analysis and Technology Division, Wireline Competition Bureau, 445 12th Street SW., Room 6–A134, Washington, DC 20554; email: *Jay.Schwarz@fcc.gov;*

(2) Alexander Minard, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5–A334, Washington, DC 20554; email: *Alexander.Minard@fcc.gov.*

10. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov*

or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

11. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Rodger Woock,

Chief, Industry Analysis and Technology Division Wireline Competition Bureau.

Wireline Competition Bureau Staff Report

Possible Methodologies for Establishing Reasonably Comparable Broadband Rates for Fixed Services

June 30, 2014

Introduction. In the *USF/ICC Transformation Order,* the Commission required that as a condition of receiving Connect America Fund support, recipients must offer voice and broadband services in supported areas at rates that are reasonably comparable to rates for similar services in urban areas. The Commission concluded that rural rates for broadband service would be deemed "reasonably comparable" to urban rates if those rates "fall within a reasonable range of the national average urban rate for broadband service." It delegated authority to the Wireline Competition and Wireless Telecommunications Bureaus to conduct an annual survey of urban broadband rates in order to derive a national range of rates for broadband service. In the *USF/ICC Transformation FNPRM,* the Commission sought comment on whether using two standard deviations would be the appropriate methodology for determining reasonable comparability, or should another methodology be used.

The Wireline Competition Bureau (Bureau) is working to develop an approach for determining an upper range of rates that could be reasonably comparable to urban broadband prices for a broadband service with characteristics similar to a specified minimum download speed, upload speed and usage allowance. Our objective is to develop an approach that is flexible enough to take account any changes the Commission may make in the future regarding broadband performance obligations for recipients of Connect America funding.

Developing a methodology for setting a reasonably comparable broadband benchmark involves (1) defining terms and scope based on the *USF/ICC Transformation Order,* (2) creating a sampling plan, (3) processing the collected data, and (4) analyzing the data. We explain below each step in this process, specifying the decisions that the Bureaus have already made regarding the execution of the urban rate survey and identifying the options for analyzing the data that has been collected.

Implementation of the Survey—Definitions. In 2013, the Bureaus adopted the form and content of the urban rate survey. We decided to compute the "national average urban rate for broadband service" based on the mean of residential, non-promotional, advertised rates offered to potential new customers by firms in urban areas, i.e. list prices. Given this, we designed a survey and methodology to estimate this parameter. The specific statistical interpretation used for development of the survey and estimation from the data collected is given in the Appendix.

The Bureaus made the decision not to create a national average urban rate that blends rates derived from fixed and mobile data. Satellite broadband also was excluded from the sampling frame. The Bureaus made the decision not to include existing contracts, but instead to collect rates only for new offered service. The Bureaus made the decision to collect rates on all standalone service plans offered to residential customers. As a result, in our sample, for each plan offered, the provider reported the advertised download bandwidth, the advertised upload bandwidth, the usage allowance (if any), and the monthly rate.

The Bureaus made a decision to define urban rates based on whether the rate was offered in an urban census tract. A census tract was defined as urban if it contained any census-defined Urban Areas or Urban Clusters. Census tracts served as the geographic unit for which providers were asked to report residential broadband rates.

Survey Sample Selection. A sample of 500 survey units was randomly selected with replacement. These survey units were chosen by the Bureau's Industry Analysis and Technology Division (IATD) in a two-step process. First, 500 census tracts were randomly selected from all urban census tracts (as defined above). Second, for each of these selected census tracts a provider was chosen, using FCC Form 477 data. This census tract-provider pair constitutes a sampling unit for which a survey was sent. Each of these sampling steps is explained below.

The frame for the selection of urban census tracts was provided by the Excel file *"urbantracts_list_all.xls"* which listed 58,331 urban census tracts encompassing the 50 states, the District of Columbia, and Puerto Rico. The first phase in the sample selection process was to randomly select, using household weights, 500 census tracts with replacement from this list of urban census tracts. The selection was weighted proportionately by the number of households in the census tracts which was also provided in the file. The

selection was performed using the "RandomChoice" function in Mathematica. The selection process produced an Excel file "urban tracts sample broadband.xls" of 498 unique census tracts; two census tracts were each selected twice.

An Excel file ("broadband_v2") listing Fixed Broadband service providers reporting subscribers in the 498 unique census tracts in the sample was prepared based on Form 477 December 2012 filings. The file also gave the number of residential connections each provider had in each census tract in the sample.

For each of the 500 census tracts in the sample, a service provider was randomly selected from the providers of Fixed Broadband service for that census tract as listed in "broadband_v2" using the "RandomChoice" function in Mathematica. Because different providers in the same census tract may offer service to substantially different numbers of households, the selection was weighted based on the number of residential subscribers for each provider in the census tract as now described.

A service provider was given weight = 1 if the provider had more than 7% of the total residential subscribers in the census tract. Otherwise, the provider was given the weight = 1/(N+1) where N is the number of providers with 7% or less of the total residential subscribers in the census tract. So, if the census tract had only one service provider with 7% or less of the total residential subscribers in the census tract, that service provider had weight 1/2 while all others had weight 1. If the census tract had two service providers each with 7% or less of the total residential subscribers in the census tract, those two service providers each had weight 1/3 while all others had weight 1.

Survey Data Collection. The Bureau contacted each provider that had been selected in the sampling stage. Each provider was asked to report rates for all standalone broadband plans in one or more census tracts. These providers were asked to report these rates via a specially-designed online system for which each provider was given login access. If a provider did not currently offer residential service in the census tract, the provider would indicate this and otherwise report nothing. Providers reported rates beginning December 17, 2013, continuing for several weeks thereafter.

Analysis of the Collected Data—Data Preparation. The Bureau received responses for 498 census tracts from 81 service providers. A total of 2211 rows of data were recorded. A total of 63 rows did not provide monthly rate data, for the following reasons:

- The row gave no indication that the census tract was served by the provider (54).
- The row was an erroneous entry (4).
- The row indicated service at a specified level was provided but no rates were given (3).
- The row indicated that service would be provided at a higher level in the future (1).
- The row was a duplicate entry (1).

In two separate cases identical rates were provided for the same service for the same provider in the same census tract; in each of these two cases, the two duplicate rows were merged into a single row. In addition, some service providers offered the same service in a census tract using digital subscriber line (DSL) and fiber to the home (FTTH) technologies reporting rates for each technology on separate rows. There were 41 such cases where the two rows were merged by averaging the rates for DSL and FTTH technologies. As a result, a total of 2105 monthly rates for broadband service were provided by 71 providers for 444 census tracts.

Values for reported download speeds ranged from 0.5 to 20480 and values for reported upload speeds ranged from 0.125 to 1024. All values were expected to be entered in Mbps, but some respondents evidently entered the relevant data as Kbps. For consistency, speed values entered in the survey were converted as shown in the table below:

Speed entered	Speed
0.256 or 256	0.25
0.384 or 384	0.375
0.512 or 512	0.5
0.768 or 768	0.75
1.024 or 1024	1
20.48 or 20480	20

The rates presented below represent the sum of the Monthly Charge, Surcharge, and Other Mandatory Charge (if any) reported by the respondents. In cases where a maximum and minimum charge was provided by the respondent, the average of the maximum and minimum was used.

Two service offering rates from Nitelog Inc were excluded from the analysis as apparent outliers. The rates were $1,250 and $1,999 for 25/25/Unlimited and 50/50/Unlimited using Fixed Wireless technology. The next highest reported monthly rate was $399.95 for 505/100/250 service.

One service offering from Digis LLC for 5/5/Unlimited service using Fixed Wireless technology at a monthly rate of $271.45 was also excluded from the analysis as an apparent outlier. The next highest reported monthly rate for 5/×/Unlimited service was $87.45 for 0.75 Mbps upload speed. The third highest reported monthly rate for 5/×/Unlimited service was $61.45 for 2 Mbps upload speed which was also offered by Digis LLC.

Potential Options. The goal is to develop an approach for determining an upper range of rates that could be reasonably comparable to the national average urban rate for similar broadband services. For purposes of the following discussion, the Bureau defined "similar services" as those with a download speed, upload speed, and usage allowance close to the minimum performance specifications of a download speed of 4 Mbps, an upload speed 1 Mbps, and a usage allowance of 100 GB per month. We note, however, that the options presented could be adapted for use with services offering differing speeds and/or usage allowances and thus would be flexible enough to take account any changes the Commission may make in the future regarding broadband performance obligations.

The following analysis explicitly does not select a specific methodology or benchmark. Rather, we present several potential methodologies for determining an upper range that could be adopted by the Bureau at a future date as a benchmark and discuss the benefits and challenges of each. The selection of a method and a value to select with that method are decisions that will be made after further public comment.

The first method is to calculate relatively simple rate statistics for specified subsamples; for example, all rates for observations with the specified download speed, or all rates for observations from providers that offer a service that meets or exceeds a minimum service level. Both of these approaches have the disadvantage of including and/or excluding observations that are close, but not identical to the specified broadband service requirement. A variant of these approaches would be to develop an average rate for a selection of similar services, while testing how sensitive the resulting range is to any given choice of similar services. A third approach uses regression analysis to account for the multiple dimensions of broadband service (i.e. download bandwidth, upload bandwidth, and usage allowance).

As a general note, in each methodology, we only present in the main body of the text the point estimates. However, it is important to remember that each point estimate has a statistical error and therefore has a

confidence interval around it. Thus, if the statistical error is known, we could say with 95% confidence that the population value lay within a specific interval of its estimate from the sample.

Rate Estimates for Services with the Specified Download Speed. The first approach we consider is the estimation of candidate benchmark values directly from rates from those observations for the specified download speed. Under this approach, we would specify the relevant download speed, say, 4 Mbps, and the relevant cutoff, say, the sample average plus two standard deviations. If rates were normally distributed, this upper bound would represent an unbiased estimate of the rate that was higher than 97.5% of all rates with the download speed of interest. For the reasons discussed below, we would not recommend this approach. However, it has expositional value because it illustrates both the nature of our sample and the problems in trying to define an upper range of rates.

Table 2 below provides estimates of monthly broadband rate statistics for different download speeds or download speed groups. "Responses" is the number of responses out of the 498 received used in the estimate. "Number of Providers" is the number of different providers represented in the observations. All of the remaining seven columns starting with "Median Rate ($)" contain weighted estimates; for each observation, the weight used was the sum of the weights described earlier for service providers in the census tract of the observation. These weights were used in all methodologies described in this document. "% with Unlimited Usage Allowance" is the weighted estimated percentage of offers for services at the specified speed that have an unlimited usage allowance. In Table 2 we present statistics combining all observations for services with download bandwidths between 3 and 4 Mbps. For the combined 3 through 4 Mbps grouping, the mean plus two standard deviations value is $73.22.

TABLE 2—RATE ESTIMATES WITHIN DOWNLOAD SPEED BANDS

Downloan speed (mbps)	Number of providers	Responses	Median rates ($)	Average rates ($)	Std dev rates ($)	Ave+2SD rates ($)	95% Quantile ($)	97.5% Quantile ($)	% With unlimited usage allowance
0–2	28	236	39.78	40.59	10.92	62.43	53.99	69.99	38
3–4	45	242	44.99	47.48	12.87	73.22	64.99	64.99	50
5	12	67	45.99	46.32	7.27	60.85	59.95	61.45	23
6	14	125	49.95	48.78	7.60	63.98	50.94	58.97	23
7	5	33	45.99	48.37	4.94	58.24	54.95	69.49	20
8	4	17	50.94	57.38	19.27	95.93	95.00	95.00	29
9	2	2	62.99	63.82	1.44	66.71	66.32	66.32	100
10	18	47	52.00	58.84	17.44	93.72	99.00	121.45	76
11–15	34	154	55.99	60.56	15.67	91.90	74.99	74.99	78
16–25	26	309	64.95	61.19	14.95	91.10	75.94	96.00	29
26–50	43	292	76.95	86.03	21.17	128.37	115.99	149.00	54
51–100	27	104	94.99	102.45	33.63	169.70	123.00	200.29	87
101–150	18	162	114.95	123.76	16.79	157.34	144.99	144.99	40
151–1000	13	75	304.99	281.91	69.52	420.95	399.95	399.95	82

The key drawback of this approach is that it only takes into consideration one dimension of the service (i.e. download bandwidth) even though *a priori* we would expect upload bandwidth and usage allowances also to be reflected in the price (for example, this approach would average together a 4/0.4/10 service with a 4/4/1,000 service, if both of those existed). The benefit of this approach, if not its practical usefulness, is that it is straightforward and easily understandable.

Rate Estimates for Service Offerings Meeting or Exceeding a Minimum Service Level. Another approach that focuses on urban rates that meet or exceed a specified minimum service level (MSL) would be to compute the average of the minimal monthly rate for each service provider that meets or exceeds the MSL. To illustrate this approach, a subset of the sample was created consisting of all rates for offerings that met or exceeded the MSL. Then, from this subset, the lowest monthly rate was found for each service provider. For each provider, each census tract with service offered at the provider's lowest rate was included in the estimate. The following table presents estimates of several statistics for monthly service rates based on the observations selected as described above with MSL=4/1/100 and for MSL=10/1/100.

TABLE 3—RATE ESTIMATES FOR SERVICE OFFERINGS MEETING OR EXCEEDING A MINIMUM SERVICE LEVEL

MSL	Providers	Observations	Median	Average	Ave+2SD	97.5% Quantile
4/1/100	64	353	$49.95	$54.54	$82.00	$89.00
10/1/100	59	255	54.99	58.05	84.15	79.95

The benefit of this approach is its simplicity and that it includes all providers offering service meeting or exceeding the MSL. The negatives of this approach are that:

- It incorporates observations into the benchmark for urban services with characteristics that are far above the MSL, which are not "similar" services; and
- it may exclude services that are very close to, but do not quite meet the MSL.

A More General Approach to Selecting Sub-samples. Both of the approaches just examined involve the selection of sub-samples for analysis (all those rates for services that deliver the minimum download speed, and the minimum rate for each provider that has

at least one service that meets or exceeds the MSL). However, in both cases observations below the MSL (or its proxy) are excluded. A variation on these approaches is to include observations for offerings with differing characteristics within a certain range or ranges below the chosen MSL as well as above the MSL. The challenge of doing so, however, is deciding what is the appropriate range that should be deemed "similar" to the specified performance standard.

Rate Estimates from a Weighted Linear Regression Model. The third approach is based on a weighted linear regression model. This has an important advantage over the use of simple averages in that it provides a formalized means of estimating the various degrees to which the different service characteristics (download speed, upload speed, and usage allowance) influence rates. However, it also requires similar decisions to those made above. Because inclusion of observations from services dramatically different from a MSL plan might influence the ultimate benchmark, it may be appropriate to use a subsample, that is, to fit a model using data only in the region of interest for the MSL. In particular, we found that standard deviations of rates with less than 15 Mbps download speed tend to be smaller than those at higher download speeds. Consequently, using a model fitting all the data as opposed to one fitting data using observations in the lower range of speeds could result in overestimation of the standard deviation appropriate to the MSL and consequently also the benchmark rate.

To illustrate this approach, we applied a multidimensional weighted linear regression technique to all services with download bandwidths of 15 Mbps or less. This sub-sample of the data encompassed 995 rates from 65 different providers. The rates in this sub-sample ranged from $11.46 to $151.45 with a weighted standard deviation of $14.22. We undertook a weighted linear regression fit based on the following model:

$$\text{Average Monthly Rate (\$)} = K_0 + K_D D + K_U U - K_A A$$

for download speed in Mbps (D), upload speed in Mbps (U), and usage allowance in GB (A = 1/UsageAllowance or 0 if unlimited usage) was used. We estimated the parameters as:

$$\text{Average Monthly Rate (\$)} = 41.247 + 1.02463\ D + 2.75597\ U - 335.676\ A.$$

The weighted R Squared was 0.30 and each estimated coefficient was significant at the 0.1% confidence level.

The table below shows the model's average monthly rate estimates for various service levels.

TABLE 4—ESTIMATES OF AVERAGE MONTHLY RATE BASED ON THE LINEAR REGRESSION MODEL

Speed (Mbps) down/up	Usage allowance (GB)		
	100	250	No limit
3/.5	$42.34	$44.36	$45.70
3/1	43.72	45.73	47.08
4/1	44.74	46.76	48.10
5/.5	44.39	46.41	47.75
5/1	45.77	47.78	49.13
6/.5	45.42	47.43	48.77
6/1	46.79	48.81	50.15
10/1	50.89	52.91	54.25

The table below shows the standard deviation of error for the average monthly rate estimates in Table 4.

TABLE 5—STANDARD DEVIATION OF ERROR IN ESTIMATES OF AVERAGE MONTHLY RATE IN TABLE 4

Speed (Mbps) down/up	Usage allowance (GB)		
	100	250	No limit
3/.5	$0.71	$0.44	$0.57
3/1	0.74	0.45	0.57
4/1	0.73	0.40	0.52
5/.5	0.74	0.43	0.54
5/1	0.73	0.39	0.49
6/.5	0.78	0.47	0.56
6/1	0.75	0.40	0.48
10/1	0.96	0.65	0.65

A 95% confidence interval for the estimates in Table 4 would be roughly +/− twice the values in Table 5.

Various quantile levels can be estimated using the following table with the equation

Monthly Rate Quantile P = Average Monthly Rate + Q_P SD

where SD is the weighted standard deviation about the regression fit ($11.87).

TABLE 6—QUANTILES OF THE STANDARD NORMAL DISTRIBUTION

P	Q_P
90%	1.282
95%	1.645
97.5%	1.960
99%	2.326

Using the equation above, the table below shows the model's average monthly rates plus twice the standard deviation for the same set of service levels as in Table 4; these values are roughly the 97.5% quantiles for the rates.

TABLE 7—ESTIMATES OF AVERAGE MONTHLY RATE PLUS 2 STANDARD DEVIATIONS BASED ON THE LINEAR REGRESSION MODEL

Speed (Mbps) down/up	Usage allowance (GB)		
	100	250	No limit
3/.5	$66.08	$68.10	$69.44
3/1	67.46	69.47	70.82
4/1	68.48	70.50	71.84
5/.5	68.13	70.15	71.49
5/1	69.51	71.52	72.87
6/.5	69.16	71.17	72.51
6/1	70.53	72.55	73.89
10/1	74.63	76.65	77.99

For example, using the above estimated regression model to set a broadband reasonable comparability benchmark for the minimum service characteristics based on the average rate plus twice the standard deviation:

- If the minimum broadband performance standard is 4/1 Mbps with a 100 GB usage allowance, then the reasonable comparability benchmark would be $68.48.
- If the minimum broadband performance standard is 10/1 Mbps with a 100 GB usage allowance, then the reasonable comparability benchmark would be $74.63.

Not surprisingly, these numbers are lower than the results of the second approach which includes observations that exceed the specified minimum service standard. These estimates from linear regression take into account various service characteristics, while the previous approach utilized observations for services with differing service characteristics without adjusting for those characteristics. We note, however, these are only examples.

Technical Background. The sample process was designed to estimate the mean and standard deviation of the distribution of available service rates for broadband service in urban areas. These estimates could then be used as input for establishing benchmarks; for example, the mean plus twice the standard deviation is a possible upper limit based on the approximate 97.5 percentile of a normal distribution.

At a conceptual level, the "distribution of available service rates in urban areas" could be captured through the following process:

1. For each household in an urban area in the United States, list all the service providers offering fixed broadband service to that household and the service rates they offer for each level of service.

2. Concatenate all the lists from each household into a single list.

The resulting list of rates is the distribution of available service rates in urban areas for fixed broadband service at various levels of service.

If we were to focus on the rates for a specific level of service, the mean and standard deviation of available rates would be

$$\bar{R} = \sum_{i=1}^{N} \sum_{j=1}^{J_i} R_{ij} / N_R$$

$$\sigma_R = \sqrt{\sum_{i=1}^{N} \sum_{j=1}^{J_i} \left(R_{ij} - \bar{R}\right)^2 / N_R}$$

where

R_{ij} = jth rate available to household i

J_i = number of rates available to household i

N = number of eligible households

N_R = Total number of available rates = $\sum_{i=1}^{N} J_i$

From a practical standpoint, an equivalent result may be obtained by surveying service providers offering the relevant service in urban areas to obtain data on their rates. In this frame, the equivalent mean of the distribution of available rates is obtained as the weighted sum of rates offered by service providers in each census tract. Similarly, the equivalent standard deviation of the distribution of available rates is obtained as the square root of the weighted sum of squared differences between the mean rate of the distribution and rates offered by service providers in each census tract.

$$\bar{R} = \sum_{i=1}^{U} \sum_{k=1}^{K_i} W_{ik} Y_{ik} / N_R$$

$$\sigma_R = \sqrt{\sum_{i=1}^{N} \sum_{k=1}^{K_i} W_{ik} (Y_{ik} - \bar{R})^2 / N_R}$$

where

Y_{ik} = rate offered in census tract i by service provider k

W_{ik} = number of households in census tract i offered service by service provider k

K_i = number of service providers offering service in census tract i

U = number of urban census tracts

W_i = Total number of available rates in census tract i = $\sum_{k=1}^{K_i} W_{ik}$

N_R = Total number of available rates = $\sum_{i=1}^{U} W_i$

In order to estimate the mean and the standard deviation, a sample of service providers offering fixed broadband service were surveyed for rates they offer in a sample of urban census tracts. The sampling process was as follows:

- A census tract i was randomly selected with probability H_i/H where H_i is the number of households in census tract i and H is the sum of the H_i over all census tracts.
- A carrier k was randomly selected from the K_i carriers offering service in census tract i with probability W_{ik}/W_i
- This process is repeated n = 500 times to obtain 500 sampling units. We note that sampling units could appear multiple times in the sample.

The mean of the rate distribution was estimated as the ratio of total dollars in rate offers to the total number of rates. We note that the total number of available rates is not known, so it must be estimated from the sample as well as the estimate of total dollars in rate offers. Consequently, an estimate of the mean of available rates based on this sample is

$$\hat{\bar{R}} = \left(\frac{\sum_{j=1}^{n} X_j / P_j}{n}\right) / \left(\frac{\sum_{j=1}^{n} Z_j / Q_j}{n}\right)$$

where

X_j = W_{ik} Y_{ik} from the j[th] sampling unit (census tract i and carrier k),

P_j = probability of selecting the jth sampling unit = $(H_i/H)(W_{ik}/W_i)$ for the j[th] sampling unit,

Z_j = W_i from the j[th] sampling unit,

Q_j = probability of selecting the jth urban area = H_i/H)

The estimate of the mean can be simplified to

$$\hat{\bar{R}} = \frac{\sum_{j=1}^{n} F_j Y_j}{\sum_{j=1}^{n} F_j}$$

where Y_j is the rate Y_{ik} and F_j is W_i/H_i for the jth sampling unit.

The values for the W_i are not known. As described in the main text, weights between 0 and 1 were assigned to carriers in each census tract of the sample based on their share of residential subscribers in the tract. These weights are expressions of W_{ik}/H_i (the fraction of households carrier k offers service in census tract i) and therefore F_i is the sum of these weights for carriers in census tract i. Similarly, the estimate of the standard deviation is

$$\widehat{\sigma_R} = \sqrt{\frac{\sum_{j=1}^{n} F_j \left(Y_j - \hat{\bar{R}}\right)^2}{\sum_{j=1}^{n} F_j}}.$$

[FR Doc. 2014–17117 Filed 7–18–14; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 79, No. 139
Monday, July 21, 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

Rural Housing Service

Notice of Funds Availability for the Section 533 Housing Preservation Grants for Fiscal Year 2014

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Housing Service published a document in the **Federal Register** on June 11, 2014, (79 FR 33495) announcing that it is soliciting competitive applications under its Housing Preservation Grant program. The listing for the Central Contractor Registration, Rural Development Vermont State Office address, West Virginia State Office address, and Wyoming State Office telephone and TDD number were incorrectly identified in the notice.

FOR FURTHER INFORMATION CONTACT: Bonnie Edwards-Jackson, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, USDA Rural Development, Stop 0781, 1400 Independence Avenue SW., Washington, DC 20250–0781, telephone (202) 690–0759 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service) or via email at, *Bonnie.Edwards@wdc.usda.gov.*

Correction

In the **Federal Register** of June 11, 2014, in FR Doc. 2014–13631, on page, 33496, in the second column, the listing to register for the Central Contractor Registration should read:

3. Dun and Bradstreet Universal Numbering System (DUNS) and System for Award Management

Please note that all applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and register, and maintain such registration, in the Central Contractor Registration (CCR) prior to submitting a pre-application pursuant to 2 CFR part 25. As required by the Office of Management and Budget (OMB), all grant applicants must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at (866) 705–5711 or by accessing *http://www.dnb.com/us/.* Additional information concerning this requirement is provided in a policy directive issued by OMB and published in the **Federal Register** on June 27, 2003 (68 FR 38402–38405). Similarly, applicants may register for the CCR at *www.sam.gov.*

Correction

In the **Federal Register** of June 11, 2014, in FR Doc. 2014–13631, on page, 33500, in the second column, the listing for the Rural Development Vermont State Office, address to contact should read:

Vermont State Office, 87 State Street, Suite 324, P.O. Box 249, Montpelier, VT 05601, (802) 828–6028, TDD (802)223–6365, Tammy Surprise.

Correction

In the **Federal Register** of June 11, 2014, in FR Doc. 2014–13631, on page, 33500, in the second column, the listing for the Rural Development West Virginia State Office, address to contact should read:

West Virginia State Office, 2118 Ripley Road, Ripley, West Virginia 25271, (304) 372–3441, ext. 105, TDD (304) 284–4836, Penny Thaxton.

Correction

In the **Federal Register** of June 11, 2014, in FR Doc. 2014–13631, on page, 33500, in the second column, the listing for the Rural Development Wyoming State Office, phone number to contact should read:

Wyoming State Office, Post Office Box 82601, Casper, Wyoming 25271, (307) 233–6720, TDD (307) 233–6733, Laura Koenig.

Dated: July 8, 2014.

Tony J. Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–17029 Filed 7–18–14; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 140625540–4540–01]

Proposed Data Sharing Activity

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The Bureau of Economic Analysis (BEA) plans to provide to the Bureau of the Census (Census) certain business data collected on its benchmark and annual surveys of U.S. direct investment abroad and foreign direct investment in the United States for statistical purposes exclusively. In accordance with the requirement of Section 524(d) of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), we are providing the opportunity for public comment on this data sharing action. BEA will provide data collected in its surveys to link with data from the Census Company Organization Survey (COS). The linked data will be used for several purposes by both agencies, such as validating data collected on, and improving the sample of, the COS and assisting both agencies in developing specific questionnaire language to measure topics related to economic globalization, such as international trade in contract manufacturing services and intellectual property. The BEA and Census Bureau may publish non-confidential aggregate reports (public use) that have cleared the BEA and Census Bureau disclosure reviews.

DATES: Written comments must be submitted on or before 5 p.m. September 19, 2014.

ADDRESSES: Please direct all written comments on this proposed program to the Director, Bureau of Economic Analysis (BE–1), Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on this proposed program should be directed to Raymond Mataloni, Department of Commerce, Bureau of Economic Analysis (BE–50), Washington, DC 20230, via the Internet at *raymond.mataloni@bea.gov*, by phone on (202) 606–9867, or by FAX on (202) 606–2934.

SUPPLEMENTARY INFORMATION:

Background

Title 13 United States Code (U.S.C.), Section 402, Title 22 U.S.C., Section 3104(d), and Section 524(a) of the CIPSEA (44 U.S.C. 3501 note) allow BEA and Census to share certain business data for exclusively statistical purposes. Section 524(d) of the CIPSEA requires us to publish a **Federal Register** notice announcing our intent to share data (allowing 60 days for public comment), since BEA respondents were required by law to report the data. Section 524(d) also requires us to provide information about the terms of the agreement for data sharing. For purposes of this notice, BEA has decided to group these terms by three categories. The categories are:

- Shared data.
- Statistical purposes for the shared data.
- Data access and confidentiality.

Shared Data

BEA proposes to provide Census with data collected in the benchmark and annual surveys of U.S. direct investment abroad and of foreign direct investment in the United States. Census will use these data for statistical purposes exclusively.

Statistical Purposes for the Shared Data

Data collected in the benchmark and annual surveys of direct investment are used to develop estimates of the financing and operations of U.S. parent companies, their foreign affiliates, and U.S. affiliates of foreign companies. These estimates are published in the *Survey of Current Business,* BEA's monthly journal; in other BEA publications; and on BEA's Web site at *http://www.bea.gov/.* All data to be shared by BEA are collected pursuant to the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108).

The data set created by linking these data with data from the Census COS will be used for several purposes by both agencies, such as validating data collected on, and improving the sample of, the COS and assisting both agencies in developing specific questionnaire language to measure topics related to economic globalization, such as international trade in contract manufacturing services and intellectual property.

Data Access and Confidentiality

Title 22, U.S.C., Section 3104(c), protects the confidentiality of these data. The data may be seen only by persons sworn to uphold the confidentiality of the information. Access to the shared data will be restricted to specifically authorized personnel and will be provided for statistical purposes only. Any results of this research are subject to BEA and Census disclosure protection. All Census employees with access to BEA data will become BEA Special Sworn Employees—meaning that they, under penalty of law, must uphold the data's confidentiality. All BEA employees with access to Census data will become special sworn agents of the Census Bureau—meaning that they, under penalty of law, must uphold the data's confidentiality.

Dated: July 9, 2014.

Brian Moyer,

Acting Director, Bureau of Economic Analysis.

[FR Doc. 2014–17006 Filed 7–18–14; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–017]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective:* July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Emily Halle or Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0176 or (202) 482–3857, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 3, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of passenger vehicle and light truck tires (certain passenger tires) from the People's Republic of China (PRC), filed in proper form on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (Petitioner).[1] The CVD Petition was accompanied by an antidumping duty (AD) petition concerning passenger tires from the PRC.[2] Petitioner is a recognized union, which represents the domestic industry engaged in the manufacture of passenger vehicle tires in the United States. On June 6, 2014, the Department requested further information and clarification regarding certain general portions of the AD Petition and the CVD Petition.[3] On June 6, 2014, the Department also requested further information and clarification regarding certain portions of the CVD Petition.[4] Petitioner filed its responses to these requests on June 10, 2014,[5] and, as allowed by an extension granted by the Department,[6] June 11, 2014.[7] Because it was not clear from the Petitions whether the industry support criteria had been met, the Department extended the time for initiating this investigation in order to further examine the issue of industry support by 20 additional days.[8] The extended initiation determination date of July 13, 2014, falls on a Sunday, a non-business day, so the Department's initiation determination is due no later than July 14, 2014, the next business day.[9]

[1] *See* "Petition for the Imposition of Countervailing Duties on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," June 3, 2014 (CVD Petition).

[2] *See* "Petition for the Imposition of Antidumping Duties on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," June 3, 2014 (AD Petition).

[3] *See* Letter to Petitioner, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Supplemental Questions," June 6, 2014 (General Issues Supplemental Questions).

[4] *See* Letter to Petitioner, "Petitions for the Imposition of Countervailing Duties on Imports of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Supplemental Questions," June 6, 2014.

[5] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from tire People's Republic of China—Petitioner's Response to the Department's June 6, 2014 Supplemental Questions regarding General Issues," June 10, 2014; *see also* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Response to the Department's June 6, 2014 Supplemental Questions Regarding the Countervailing Duty Petition," June 10, 2014.

[6] *See* Letter to Petitioner, "Request for Extension of Time to Submit a Response to the Department of Commerce's June 6, 2014 Supplemental Questionnaire (Question 16 only) Regarding the Petition for the Imposition of Countervailing Duties on Imports of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," June 10, 2014.

[7] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Submission of Additional Information in Response to Question 16 of the Department's June 6, 2014 Supplemental Questions Regarding the Countervailing Duty Petition Response to Question 16 of the CVD Supplemental Questions," June 11, 2014.

[8] *See Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China,* 79 FR 35725 (June 24, 2014).

[9] *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative*

Continued

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that the Government of the PRC (the GOC) is providing countervailable subsidies, as defined by sections 701 and 771(5) of the Act, with respect to imports of certain passenger tires from the PRC, and that such imports are materially injuring, or threaten material injury to, the domestic industry producing certain passenger tires in the United States. The Department finds that Petitioner filed the CVD Petition on behalf of the domestic industry because Petitioner is an interested party, within the meaning of section 771(9)(D) of the Act, and has demonstrated sufficient industry support with respect to the initiation of the investigation it is requesting.

Period of Investigation

The period of investigation (POI) is January 1, 2013, through December, 31, 2013.

Scope of Investigation

The products covered by this investigation are certain passenger tires from the PRC. For a full description of the scope of this investigation, *see* "Scope of Investigation" at the Appendix of this notice.

Comments on the Scope of the Investigation

During our review of the CVD Petition, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope in order to ensure that the language of the scope in the CVD Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[10] As discussed in the Preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[11] The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information,[12] all such factual information should be limited to public information. All comments must be filed by 5:00 p.m. Eastern Time (ET) on August 4, 2014, which is 20 calendar days from the signature date of this notice.[13] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 14, 2014, which is 10 calendar days after the initial comments. The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of this CVD investigation and the concurrent AD investigation.

Filing Requirements

All submissions to the Department must be filed electronically, using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).[14] An electronically-filed document must be successfully received, in its entirety, by 5:00 p.m. ET on the date specified by the Department.[15] Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the established deadline.[16]

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the GOC to participate in consultations regarding the CVD Petition.[17] Consultations with the GOC were held on June 17, 2014.[18]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[19]

Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005) (*Next Business Doy Rule*).

[10] *See* General Issues Supplemental Questions.

[11] *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

[12] *See* 19 CFR 351.102(b)(21).

[13] As 20 days from the signature date will be Saturday August 2, 2014, the next business day for filing comments will be Monday August 4, 2014. *See Next Business Doy Rule.*

[14] For general filing requirements, *see* 19 CFR 351.303.

[15] *Id.; see also* 19 CFR 351.301 (for general time limits for the submission of factual information).

[16] *See* 19 CFR 351.303(b). For details regarding the Department's electronic filing requirements, *see Antidumping ond Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011). Information regarding IA ACCESS assistance can be found at *https://ioaccess.trade.gov/help.aspx*, and a handbook can be found at *https://iooccess.trade.gov/help/Handbook%20an%20Electranic%20Filling%20Procedures.pdf.*

[17] *See* Letter to Liu Fang, First Secretary, Embassy of China in the United States of America, "Countervailing Duty Petition on Passenger Vehicle and Light Truck Tires from the People's Republic of China," June 3, 2014.

[18] *See* Memorandum, "Countervailing Duty Petition on Passenger Vehicle and Light Truck Tires from the People's Republic of China: Consultations," June 18, 2014.

[19] *See USEC, Inc.* v. *United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algomo Steel Corp., Ltd.*

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we determine that certain passenger tires, as defined in the scope of the investigation, constitute a single domestic like product and we analyzed industry support in terms of that single domestic like product.[20]

On June 12, 2014, we received comments on industry support from the Sub-Committee of Tire Producers of the China Chamber of Commerce of Metals, Minerals & Chemical Importers and the China Rubber Industry Association.[21] Petitioner responded to these comments on June 16 and 17, 2014.[22] In a meeting on July 8, 2014, the Government of the PRC also commented on industry support for the Petition.[23]

On June 17, 2014, the Department extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was "not clear from the Petitions whether the industry support criteria have been met. . . ."[24]

On June 20, 2014, we issued polling questionnaires to all known producers of certain passenger tires in the United States, identified in the Petition and by the ITC, as well as all known unions, employee organizations, or *ad hoc* groups of workers.[25] We requested that the companies/workers complete the polling questionnaire and certify their responses by the due date specified in the cover letter to the questionnaire.[26] Petitioner provided comments on the polling questionnaire responses on July 8, 2014.[27]

Our analysis of the data we received in the polling questionnaire responses indicates that the domestic producers and workers that support the Petition account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[28] Accordingly, the Department determines that the industry support requirements of section 702(c)(4)(A) of the Act have been met. Therefore, the Department determines that Petitioner filed this Petition on behalf of the domestic industry in accordance with section 702(b)(1) because it is an interested party as defined in section 771(9)(D) of the Act and it demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; direct replacement of domestic shipments by subject imports; decline in shipments, reduced sales volumes, and production curtailments; decline in capacity utilization and reduced capacity allocated to U.S. production of certain passenger tires; decline in employment; adverse impact on union contract negotiations; and adverse impact on financial performance. We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.

Initiation of CVD Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. In the CVD Petition, Petitioner alleges that producers/exporters of passenger tires in the PRC benefited from countervailable subsidies bestowed by the government. The Department examined the CVD Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of certain passenger tires from the PRC receive countervailable subsidies from the GOC.

Based on our review of the CVD Petition, we find that there is sufficient information to initiate a CVD investigation on certain alleged programs. For a full discussion of the

v. *United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[20] *See* Countervailing Duty Investigation Initiation Checklist: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

[21] *See* Letter, "Request to Poll the Domestic Industry to Determine Petitioner Standing: Certain Passenger Vehicle and Light Truck Tires from China," June 12, 2014.

[22] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Response to CCCMC and CRIA's Request to Poll the Industry," June 16, 2014; *see also* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Additional Information in Response to CCCMC and CRIA's Request to Poll the Industry," June 17, 2014.

[23] *See* Memorandum, "Antidumping Duty Investigation of 1,1,1,2-Tetrafluoroethane from the People's Republic of China and the Antidumping Duty and Countervailing Duty Petitions for Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Meeting with Officials from the Government of the People's Republic of China," July 9, 2014.

[24] *See Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty and Countervailing Duty Petitions: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China*, 79 FR 35725, 35726 (June 24, 2014).

[25] *See* Memorandum, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Polling Questionnaire," June 20, 2014.

[26] For a detailed discussion of the responses received, *see* CVD Initiation Checklist at Attachment II. The polling questionnaire and questionnaire responses are on file electronically via IA ACCESS and can also be accessed through the CRU.

[27] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Comments on Polling Responses," dated July 8, 2014.

[28] *See* CVD Initiation Checklist, at Attachment II.

basis for our decision to initiate or not to initiate on each program, *see* the CVD Initiation Checklist, which accompanies this notice. A public version of the CVD Initiation Checklist is available on IA ACCESS.

Respondent Selection

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for United States imports of subject merchandise during the POI under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, 4011.20.50.10, 4011.99.45.00, and 4011.99.85.00. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO shortly after the announcement of this case initiation.

Interested parties seeking access to proprietary information including the CBP data must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found at *http://enforcement.trade.gov/apo/.* Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. ET on the seventh calendar day after publication of this notice. Comments must be filed in accordance with the requirements discussed above in the "Filing Requirements" section of this notice. If respondent selection is necessary, we intend to base our decision regarding respondent selection upon comments received from interested parties and our analysis of the record information within 20 days of publication of this notice.

Distribution of Copies of the Petition

Pursuant to section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petitions has been provided to the GOC via IA ACCESS. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters to be satisfied by the provision of the public version of the Petition to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which ITC receives notice from the Department of initiation of the investigation, whether there is a reasonable indication that imports of passenger tires from the PRC are materially injuring, or threaten to a material injury, a U.S. industry.[29] A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,*[30] which modified two regulations related to AD and CVD proceedings: The definition of factual information, 19 CFR 351.102(b)(21), and the time limits for the submission of factual information, 19 CFR 351.301. The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires, (ii) evidence submitted in support of allegations, (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), (iv) evidence placed on the record by the Department, and (v) evidence other than factual information described in (i) through (iv). The final rule requires any party, when submitting factual information, to specify under which subsection 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013, and are therefore applicable to this investigation. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this investigation.

[29] *See* section 703(a) of the Act.

[30] *See* 78 FR 21246 (April 10, 2013).

Extension of Time Limits

On September 20, 2013, the Department published *Extension of Time Limits, Final Rule,*[31] which modified one regulation related to AD and CVD proceedings regarding the extension of time limits for submissions in such proceedings (19 CFR 351.302(c)). These modifications are effective for all segments initiated on or after October 21, 2013, and thus are applicable to this investigation. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm* prior to requesting an extension.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[32] Parties are hereby reminded that the Department issued a final rule with respect to certification requirements, effective August 16, 2013 and that the revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any AD or CVD proceedings initiated on or after August 16, 2013, including this investigation, should use the formats for the revised certifications provided at the end of the *Final Rule.*[33] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties seeking access to proprietary information must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at *http://enforcement.trade.gov/apo/index.html.*

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 14, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger

[31] *See* 78 FR 57790 (September 20, 2013).

[32] *See* section 782(b) of the Act.

[33] *See Certification of Foctual Infarmotion Ta Import Administration During Antidumping ond Countervoiling Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see olso* the frequently asked questions regarding the *Finol Rule,* available at the following: *http://enfarcement.trade.gov/tlei/notices/foctuol_info_final_rule_FAQ_07172013.pdf.*

vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars

LT—Identifies a tire intended primarily for service on light trucks

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book*, as updated annually.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope of this investigation are the following types of tires: (1) Racing car tires, defined as tires for use exclusively on a race track; such tires do not bear the symbol "DOT" on the sidewall; (2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book;* (3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires; and (4) non-pneumatic tires, such as solid rubber tires.

The products covered by the investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.00, 4011.99.85.00, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2014–17096 Filed 7–18–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–815, A–549–830, A–552–816]

Welded Stainless Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (the ITC), the Department is issuing antidumping duty orders on welded stainless pressure pipe (WSPP) from Malaysia, Thailand, and the Socialist Republic of Vietnam (Vietnam).

DATES: *Effective date:* July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Erin Kearney (Malaysia), or Brandon Farlander/Trisha Tran (Thailand), or Lilit Astvatsatrian (Vietnam) AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0167 or (202) 482–0182/(202) 482–4852 or (202) 482–6412, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.210(c), on May 30, 2014, the Department published its affirmative final determinations of sales at less-than-fair-value in the antidumping duty investigations of WSPP from Malaysia, Thailand, and Vietnam, respectively.[1] On July 14, 2014, the ITC notified the Department of its affirmative determinations that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of less-than-fair-value imports of WSPP from Malaysia, Thailand, and Vietnam.[2] In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from Malaysia that are subject to the Department's affirmative critical circumstances finding.[3]

Scope of the Orders

The products covered by these orders are circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of these orders, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these investigations is dispositive.

Antidumping Duty Orders

As stated above, on July 14, 2014, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determinations in these investigations, in which it found material injury with respect to WSPP from Malaysia, Thailand, and Vietnam.[4] Because the ITC determined that imports of WSPP from Malaysia, Thailand, and Vietnam are materially

[1] *See Welded Stainless Pressure Pipe From Malaysia: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part; 2012–2013,* 79 FR 31090 (May 30, 2014); *Welded Stainless Pressure Pipe From Thailand: Final Determination of Sales at Less Than Fair Value,* 79 FR 31093 (May 30, 2014); and *Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value,* 79 FR 31092 (May 30, 2014).

[2] *See* Welded Stainless Pressure Pipe from Malaysia, Thailand, and Vietnam, USITC Investigation Nos. 731–TA–1210–1212 (Final), USITC Publication 4477 (July 2014).

[3] *Id.*

[4] *Id.*

injuring a U.S. industry, unliquidated entries of such merchandise from Malaysia, Thailand, and Vietnam, entered or withdrawn from warehouse, for consumption are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of WSPP from Malaysia, Thailand, and Vietnam. These antidumping duties will be assessed on unliquidated entries of WSPP from Malaysia, Thailand, and Vietnam entered, or withdrawn from warehouse, for consumption on or after January 7, 2014, the date of publication of the preliminary determinations,[5] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination as further described below.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on all entries of WSPP from Malaysia, Thailand, and Vietnam. We will also instruct CBP to require cash deposits equal to the amounts as indicated below. These instructions suspending liquidation will remain in effect until further notice.

Accordingly, effective on the date of publication of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins listed below.[6]

Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of WSPP from Malaysia, Thailand, and Vietnam, we extended the four-month period to no more than six months in each case.[7] In the underlying investigations, the Department published the preliminary determinations on January 7, 2014. Therefore, the six-month period beginning on the date of publication of the preliminary determinations ended on July 6, 2014. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of WSPP from Malaysia, Thailand, and Vietnam entered, or withdrawn from warehouse, for consumption after July 6, 2014, the date the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determinations in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted average margin (percent)
Malaysia:	
Superinox Pipe Industry Sdn. Bhd./Superinox International Sdn. Bhd	167.11
Kanzen Tetsu Sdn. Bhd	167.11
Pantech Stainless & Alloy Industries Sdn. Bhd	167.11
All Others	22.70
Thailand:	
Ametai Co., Ltd./Thareus Co., Ltd	24.01
Thai-German Products Public Company Limited	24.01
All Others	23.89
Vietnam:	
Sonha International Corporation/Sonha International Corporation	16.25
Mejonson Industrial Vietnam Co., Ltd./Mejonson Industrial Vietnam Co., Ltd	16.25
Vietnam-Wide Entity	16.25

With regard to the ITC's negative critical circumstances determination on imports of WSPP from Malaysia, we will instruct CBP to lift suspension and to refund any cash deposit made to secure the payment of estimated antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after October 9, 2013, (*i.e.*, 90 days prior to the date of publication of the preliminary determination), but before January 7, 2014, the publication date of the preliminary determination.

[5] *See Welded Stainless Pressure Pipe from Malaysia: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 79 FR 808 (January 7, 2014); *Welded Stainless Pressure Pipe from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 812 (January 7, 2014); *Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 806 (January 7, 2014).

[6] *See* section 736(a)(3) of the Act.

[7] *See* Submission from Superinox Pipe Industry Sdn. Bhd., "Welded Stainless Steel Pipe from Malaysia; Request to Extend the Final Determination," dated November 18, 2013; *see also* Submission from Thareus Co., Ltd. and Ametai Co., Ltd., "Welded Stainless Steel Pressure Pipe from Thailand: Request for Extension of Final Determination," dated November 15, 2013; *see also* Submission from Thai-German Products Public Company Limited, "Welded Stainless Steel Pipe from Thailand; Request to Extend the Final Determination and to Extend the Deadline for TGP's Section D Response," dated November 18, 2013; *see also*, Submission of SonHa International Corporation, "Sonha Request to Postpone Final Determination: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A–552–816)," dated November 14, 2013.

This notice constitutes the antidumping duty orders with respect to WSPP from Malaysia, Thailand, and Vietnam pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: July 16, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–17206 Filed 7–18–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–881]

Malleable Cast Iron Pipe Fittings From the People's Republic of China: Final Results of Expedited Second Sunset Review of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this sunset review, the Department of Commerce ("Department") finds that revocation of the antidumping duty ("AD") order would be likely to lead to continuation or recurrence of dumping at the dumping margins identified in the "Final Results of Review" section of this notice.

DATES: *Effective*: July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5848, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2014, the Department published the notice of initiation of the second sunset review of the AD *Order*[1] on malleable cast iron pipe fittings the People's Republic of China ("PRC"), pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").[2] Both Anvil International, LLC[3] ("Anvil") and Ward Manufacturing ("Ward") timely notified the Department of their intent to participate within the deadline specified in 19 CFR 351.218(d)(1)(i), with each claiming domestic interested party status under section 771(9)(C) of the Act, as a domestic producer of malleable pipe fittings.[4] The Department then received a complete substantive response jointly filed by both Anvil and Ward (collectively, "Anvil/Ward" or "Domestic Producers") within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] The Department did not receive any responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), we conducted an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The products covered by the *Order* are certain malleable iron pipe fittings, cast, other than grooved fittings, from the PRC. The merchandise is currently classifiable under item numbers 7307.19.90.30, 7307.19.90.60, 7307.19.90.80, and 7326.90.85.88 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Excluded from the scope of this order are metal compression couplings, which are imported under HTSUS number 7307.19.90.80. A metal compression coupling consists of a coupling body, two gaskets, and two compression nuts. These products range in diameter from ½ inch to 2 inches and are carried only in galvanized finish. Although HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.[6] The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the order were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of the Sunset Review

Pursuant to section 752(c)(3) of the Act, the Department determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping at weighted-average dumping margins up to 111.36 percent.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: June 27, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–17108 Filed 7–18–14; 8:45 am]

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[1] *See Antidumping Duty Order: Certain Malleable Iron Pipe Fittings From the People's Republic of China,* 68 FR 69376 (December 12, 2003) ("*Order*").

[2] *See Initiation of Five-Year ("Sunset") Review,* 79 FR 11762 (March 3, 2014).

[3] Anvil International Inc., the predecessor to Anvil International, LLC, was one of the petitioners in the initial less-than-fair-value investigation of this proceeding. Ward Manufacturing was also a petitioner in the initial investigation.

[4] *See* letter from Anvil entitled, "Five-Year ("Sunset") Review Of Antidumping Duty Order On Malleable Cast Iron Pipe Fittings From The People's Republic Of China: Notice Of Intent To Participate Of Anvil International, LLC," dated March 13, 2014, and letter from Ward entitled, "Malleable Cast Iron Pipe Fittings from China, Second Sunset," dated March 17, 2014.

[5] *See* letter from Anvil/Ward entitled, "Malleable Cast Iron Pipe Fittings from China, Second Sunset: Substantive Response to the Notice of Initiation," dated April 2, 2014 ("Substantive Response").

[6] *See* the Department's memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled, "Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Malleable Cast Iron Pipe Fittings from the People's Republic of China," dated concurrently with this notice.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–821]

Polyethylene Retail Carrier Bags From Thailand: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review; 2008–2009

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On February 11, 2013, the U.S. Court of International Trade (CIT) sustained the Department of Commerce's (the Department's) final results of remand redetermination pursuant to the CIT's remand order.[1] Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit (CAFC) in *Timken Co., v. United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment of the CIT in this case is not in harmony with the Department's final results of administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Thailand covering the period of review (POR) of August 1, 2008 through July 31, 2009, and is amending its final results of this review with respect to the weighted-average dumping margins calculated for Thai Plastic Bags Industries Company (TPBI).[2]

DATES: *Effective Date:* February 21, 2013.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION: The Department published the final results of the 2008–2009 administrative review of the antidumping duty order on PRCBs from Thailand on March 8, 2011. Both Thai Plastic Bags Industries Co., Ltd., (TPBI) and the Polyethylene Retail Carrier Bag Committee (and its individual members, Hilex Poly Co., LLC and Superbag Corp. (collectively, the petitioner)) timely filed complaints with the CIT to challenge various aspects of the *Final Results.* On June 18, 2012, the CIT remanded for the Department to provided further explanation for its construction of section 771(35) of the Tariff Act of 1930, as amended (the Act), with respect to antidumping duty investigations and administrative reviews and to reconsider its position regarding the application of the transactions disregarded rule to TPBI's purchases of linear-low-density resin from affiliated suppliers.[3]

On September 14, 2012, the Department filed the *Remand Results* with the CIT, in which the Department provided further explanation for its construction of section 771(35) of the Act, with respect to antidumping duty investigations and administrative reviews, reconsidered its position regarding the application of the transactions disregarded rule to TPBI's purchases of linear-low-density resin from affiliated suppliers, and revised its treatment of those transactions. Accordingly, the Department recalculated TPBI's weighted-average dumping margin from 20.15 percent to 21.29 percent. On November 13, 2013, the CIT affirmed the Department's *Remand Results.*[4]

TPBI appealed the CIT's decision to the CAFC. On March 31, 2014, the CAFC affirmed the Department's *Remand Results.*[5] The CAFC's holding is now final and conclusive.

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the Federal Circuit held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's February 11, 2013, judgment constitutes a final decision of the CIT that is not in harmony with the Department's *Final Results.* This notice is published in fulfillment of the publication requirement of *Timken.*

Amended Final Results

For the reasons stated above, the Department is amending its *Final Results* with respect to TPBI's weighted-average dumping margin for this POR. The revised weighted-average dumping margin for TPBI is 21.29 percent.

Accordingly, the Department will instruct United State Customs and Border Protection (CBP) to liquidate entries of subject merchandise by TPBI in accordance with 19 CFR 351.212(b)(1).[6] Because the order on PRCBs from Thailand was revoked in part with respect to TPBI effective July 28, 2010,[7] we will not instruct CBP to collect cash deposits for entries of subject merchandise by TPBI.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: July 15, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–17085 Filed 7–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Initiation of Antidumping Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective:* July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Toni Page and Emily Halle, Office VII, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1398 and (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 3, 2014, the Department of Commerce (Department) received an antidumping duty (AD) petition concerning imports of certain passenger vehicle and light truck tires (certain passenger tires) from the People's

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[1] *See Thai Plastic Bags Industries Co., Ltd.,* v. *United States,* 895 F. Supp. 2d 1337 (CIT 2013) (*"Thai Plastic Bags II"*); *Results of Redetermination Pursuant to Court Remand, Thai Plastic Bags Industries Co., Ltd., Palyethylene Retail Carrier Bag Committee, Hilex Paly Co., LLC, and Superbag Corporation,* v. *United States,* Consol. Court No. 11–00086, dated September 14, 2012 (*Remand Results*).

[2] *See Palyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review,* 76 FR 12700 (March 8, 2011) (*Final Results*).

[3] *See Thai Plastic Bags Industries Co., Ltd.,* v. *United States,* 853 F. Supp. 2d 1267 (CIT 2012) (*Remand Order*).

[4] *See Thai Plastic Bags II,* 895 F. Supp. 2d at 1345.

[5] *See Thai Plastic Bags Industries Ca., Ltd.,* v. *United States,* 746 F.3d 1358 (Fed. Cir. 2014).

[6] *See Final Results,* 76 FR at 12701–2.

[7] *See Natice af Implementatian af Determinatian Under Section 129 af the Uruguay Raund Agreements Act and Partial Revacatian af the Antidumping Duty Order on Palyethylene Retail Carrier Bags From Thailand,* 75 FR 48940 (August 12, 2010).

Republic of China (PRC), officially filed in proper form on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (Petitioner).[1] The AD Petition was accompanied by a countervailing duty (CVD) petition concerning imports of certain passenger tires from the PRC. Petitioner is a recognized union, which represents the domestic industry engaged in the manufacture of passenger vehicle tires in the United States. On June 6, 2014, the Department requested additional information and clarification of certain areas of the Petition,[2] and on June 10, 2014, Petitioner filed responses to these requests.[3] On June 23 and July 7, 2014, Petitioner filed supplemental submissions to clarify the scope of the investigation.[4] Because it was not clear from the Petitions whether the industry support criteria had been met, the Department extended the time for initiating this investigation in order to further examine the issue of industry support by 20 additional days.[5] The extended initiation determination date of July 13, 2014, falls on a Sunday, a non-business day, so the Department's initiation determination is due no later than July 14, 2014, the next business day.[6]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of certain passenger tires from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner in support of its allegations.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(D) of the Act, and has demonstrated sufficient industry support with respect to the initiation of the AD investigation that it is requesting.[7]

Period of Investigation

Because the Petition was filed on June 3, 2014, the period of investigation (POI) is October 1, 2013, through March 31, 2014.[8]

Scope of the Investigation

The product covered by this investigation is certain passenger tires from the PRC. For a full description of the scope of the investigation, *see* the "Scope of the Investigation" at the Appendix of this notice.

Comments on the Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope in order to ensure that the language of the scope is an accurate reflection of the products for which the domestic industry is seeking relief.[9] As discussed in the Preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[10] The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information,[11] all such factual information should be limited to public information. All such comments must be filed by 5:00 p.m. Eastern Time (EDT) on August 4, 2014, which is 20 calendar days from the signature date of this notice.[12] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 14, 2014, which is 10 calendar days after the initial comments. The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of the AD investigation, as well as the concurrent CVD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by 5:00 p.m. ET on the date specified by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadline.[13]

Comments on the Product Characteristics for the AD Questionnaire

The Department requests comments from interested parties regarding the appropriate physical characteristics of certain passenger tires to be reported in response to the Department's AD questionnaire. This information will be used to identify the key physical

[1] *See* "Petition for the Imposition of Antidumping Duties on Imports of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (June 3, 2014) (Petition).

[2] *See* Letter to Petitioner, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Supplemental Questions," June 6, 2014 (General Issues Supplemental Questions).

[3] *See* Letter from Petitioner "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Response to the Department's June 6, 2014 Supplemental Questions—Antidumping," June 10, 2014 (AD Supplement); *see also* "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Response to the Department's June 6, 2014 Supplemental Questions regarding General Issues," June 10, 2014 (General Issues Supplement).

[4] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Scope Clarification Request," June 23, 2014 (Scope Supplement); *see also* Petitioner's filing "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Second Scope Clarification Request," July 7, 2014 (Second Scope Supplement).

[5] *See Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China,* 79 FR 35725 (June 24, 2014).

[6] *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

[7] *See* "Determination of Industry Support for the Petition" section, below.

[8] *See* 19 CFR 351.204(b)(1).

[9] *See* General Issues Supplemental Questionnaire; *see also* General Issues Supplement at 2–5 and Exhibits I–SQ–2 through I–SQ–6; Scope Supplement at 2–3 and Exhibit 1; *see also* Second Scope Supplement at 2 and Exhibit 1.

[10] *See Antidumping Duties; Countervailing Duties (Final Rule);* 62 FR 27296, 27323 (May 19, 1997).

[11] *See* 19 CFR 351.102(b)(21).

[12] As 20 days from the signature date will be Saturday August 2, 2014, the next business day for filing comments will be Monday August 4, 2014. *See Next Business Day Rule.*

[13] *See* 19 CFR 351.303(b)(1); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at *https://iaccess.trade.gov/help.aspx* and a handbook can be found at *https://iaccess.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

characteristics of the subject merchandise in order to report the relevant factors of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they believe are relevant to the development of an accurate list of physical characteristics. Specifically, interested parties may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe certain passenger tires, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, we must receive comments on product characteristics no later than August 4, 2014. Rebuttal comments must be received no later than August 14, 2014. All comments and submissions to the Department must be filed electronically using IA ACCESS, as referenced above.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[14] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[15]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we determine that certain passenger vehicle and light truck tires, as defined in the scope of the investigation, constitute a single domestic like product and we analyzed industry support in terms of that domestic like product.[16]

On June 12, 2014, we received comments on industry support from the Sub-Committee of Tire Producers of the China Chamber of Commerce of Metals, Minerals & Chemical Importers and the China Rubber Industry Association.[17] Petitioner responded to these comments on June 16 and 17, 2014.[18] In a meeting on July 8, 2014, the Government of the PRC also commented on industry support for the Petition.[19]

On June 17, 2014, the Department extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 732(c)(4)(D) of the Act, because it was "not clear from the Petitions whether the industry support criteria have been met. . . ."[20]

On June 20, 2014, we issued polling questionnaires to all known producers of certain passenger vehicle and light truck tires in the United States, identified in the Petition and by the ITC, as well as all known unions, employee organizations, or *ad hoc* groups of workers.[21] We requested that the companies/workers complete the polling questionnaire and certify their responses by the due date specified in the cover letter to the questionnaire.[22] Petitioner provided comments on the polling questionnaire responses on July 8, 2014.[23]

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[14] *See* section 771(10) of the Act.

[15] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algomo Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *off'd* 865 F.2d 240 (Fed. Cir. 1989)).

[16] *See* Antidumping Duty Investigation Initiation Checklist: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

[17] *See* Letter, "Request to Poll the Domestic Industry to Determine Petitioner Standing: Certain Passenger Vehicle and Light Truck Tires from China," June 12, 2014.

[18] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Petitioner's Response to CCCMC and CRIA's Request to Poll the Industry," June 16, 2014; *see also* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Additional Information in Response to CCCMC and CRIA's Request to Poll the Industry," June 17, 2014.

[19] *See* Memorandum, "Antidumping Duty Investigation of 1,1,1,2-Tetrafluoroethane from the People's Republic of China and the Antidumping Duty and Countervailing Duty Petitions for Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Meeting with Officials from the Government of the People's Republic of China," July 9, 2014.

[20] *See Notice of Extension of the Deodline for Determining the Adequocy of the Antidumping Duty ond Countervoiling Duty Petitions: Certoin Possenger Vehicle ond Light Truck Tires from the People's Republic of Chino,* 79 FR 35725, 35726 (June 24, 2014).

[21] *See* Memorandum, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Polling Questionnaire," June 20, 2014.

[22] For a detailed discussion of the responses received, *see* AD Initiation Checklist at Attachment II. The polling questionnaire and questionnaire responses are on file electronically via IA ACCESS and can also be accessed through the CRU.

[23] *See* Letter from Petitioner, "Certain Passenger Vehicle and Light Truck Tires from the People's

Our analysis of the data we received in the polling questionnaire responses indicates that the domestic producers and workers that support the Petition account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[24] Accordingly, the Department determines that the industry support requirements of section 732(c)(4)(A) of the Act have been met. Therefore, the Department determines that Petitioner filed this Petition on behalf of the domestic industry in accordance with section 732(b)(1) of the Act because it is an interested party as defined in section 771(9)(D) of the Act and it demonstrated sufficient industry support with respect to the AD investigation that it is requesting the Department initiate.[25]

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[26]

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; direct replacement of domestic shipments by subject imports; decline in shipments, reduced sales volumes, and production curtailments; decline in capacity utilization and reduced capacity allocated to U.S. production of certain passenger tires; decline in employment; adverse impact on union contract negotiations; and adverse impact on financial performance.[27] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[28]

Allegation of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate an investigation of imports of certain passenger tires from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the AD Initiation Checklist.

Export Price

Petitioner based export price (EP) on import data obtained from the U.S. Department of Commerce's Foreign Trade Division Merchandise Imports database (Imports database) for certain passenger tires. Petitioner calculated the average unit values (AUVs) per kilogram for U.S. imports of certain passenger tires from the PRC entered during the POI under ten Harmonized Tariff Schedule of the United States (HTSUS) subheadings that cover certain passenger tires. As the Import database import values reflect customs values and therefore exclude U.S. import duties, freight, and insurance, Petitioner made adjustments to deduct unrebated value added tax, foreign inland freight, and brokerage and handling at port of exportation to derive a U.S. net price.[29]

Normal Value

Petitioner states that the Department has treated the PRC as a non-market economy (NME) country in every proceeding in which the PRC has been involved.[30] The presumption of NME status for the PRC has not been revoked by the Department and, therefore, in accordance with section 771(18)(C)(i) of the Act, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the investigation is appropriately based on factors of production (FOPs) valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and granting of separate rates to individual exporters.

Petitioner contends that Thailand is the appropriate surrogate country for the PRC because: (1) It is at a level of economic development comparable to that of the PRC; (2) it is a significant producer of comparable merchandise; and (3) the data for Thailand for valuing factors of production are available and reliable.[31] Based on the information provided by Petitioner, we conclude that it is appropriate to use Thailand as a surrogate country for initiation purposes.[32] After initiation of this investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.[33]

Petitioner calculated NV using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. As Petitioner is a union representing workers in the domestic industry producing certain passenger tires and is not a domestic producer, Petitioner contends it does not have access to the proprietary information on the factors of production necessary to make certain passenger tires. Therefore, Petitioner based NV on publicly available information regarding the standard direct materials used to manufacture certain passenger tires from a number of publications.[34] Petitioner asserts that the publicly available raw material models it provided are representative, to the best of its knowledge, of the average makeup of certain passenger tires.[35] Using this information, Petitioner calculated the average percentage of total tire weight represented by each direct material for passenger car tires and for light truck tires. The information regarding the percentages of direct materials used to make a subject tire were applied to the average tire weight for each of the ten HTSUS categories of certain passenger tires obtained from the Imports database to calculate the average amount of each

Republic of China—Petitioner's Comments on Polling Responses," July 8, 2014.

[24] *See* AD Initiation Checklist, at Attachment II.

[25] *Id.*

[26] *See* Volume I of the Petition at I–18 and Exhibit I–12.

[27] *See* Volume I of the Petition, at I–15 through I–57 and Exhibits I–2, I–3, and I–12 through I–53; *see also* General Issues Supplement at 1 and Exhibit I–SQ–1.

[28] *See* AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China.

[29] *See* Volume II of the Petition at II–6 through II–7; AD Supplement at Exhibit II–SQ–16; and AD Initiation Checklist.

[30] *See* Volume II of the Petition at II–2.

[31] *Id.* at II–2 through II–6 and Exhibits II–1 through II–4.

[32] *See* AD Initiation Checklist.

[33] *See* 19 CFR 351.301(c)(3)(i). Note that this is the revised regulation published on April 10, 2013. *See http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt.*

[34] *See* Volume II of the Petition at II–8 through II–10 and Exhibits II–10 through II–21; *see also* AD Supplement at 3–5.

[35] *Id.*

direct material used in the manufacture of the subject merchandise.[36]

Petitioner valued the FOPs using reasonably available, public surrogate country data, specifically, Thai import data from the Global Trade Atlas (GTA) for the period October 2013 through March 2014.[37] Petitioner excluded from these GTA import statistics imports from countries previously determined by the Department to be NME countries, countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies, and, in accordance with the Department's practice, any imports that were labeled as originating from an "unspecified" country.[38] Petitioner valued most of the direct material inputs (synthetic rubber, fillers, compounding ingredients, reinforcing materials, scrap, and alternative materials) using GTA Thai import data.[39] Petitioner valued natural rubber using information from the Rubber Research Institute of Thailand. [40] The Department determines that the surrogate values used by Petitioner are reasonably available and, thus, are acceptable for purposes of initiation.

Petitioner calculated the average labor hours required to make one tire using the employment and production information from the financial statements of three PRC tire manufacturers (GITI Tire, Doublestar Tyre, and Guizhou Tyre Co., Ltd.).[41] Petitioner then used the weight-averaged amount of the three labor rates to determine an overall average of labor hours required to make one subject tire. Petitioner calculated the average hourly labor rate for an employee producing tires using a 2007 Thailand wage rate from the National Statistics Office's 2007 Industrial Census, and adjusted this rate for inflation using the consumer price index (CPI) data for Thailand published by the International Financial Statistics (IFS) and converted it to USD using the POI average exchange rate.[42]

Petitioner calculated financial ratios (*i.e.*, factory overhead expenses, selling, general, and administrative expenses, and profit) based on the 2013 year-end financial statements of Goodyear (Thailand) Public Company Limited (Goodyear) and Hwa Fong Rubber (Thailand) Public Company Limited (Hwa Fong), Thai manufacturers of tires, for the year ending December 31, 2013.[43] Because information provided by Petitioner indicates that Hwa Fong produces bicycle and motorcycle tires, which are not subject merchandise, while Goodyear produces certain passenger tires, we are only relying on Goodyear's financial statements for financial ratios.[44]

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of certain passenger tires from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on the comparison of net U.S. price to NV for the same or similar passenger tires in accordance with section 773(c) of the Act, Petitioner's estimated margins for certain passenger tires ranged from 45.80 to 87.99 percent.[45]

Initiation of AD Investigation

Based on our examination of the Petition on certain passenger tires from the PRC, the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of certain passenger tires from the PRC are being, or likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation. For a discussion of evidence supporting our initiation determination, *see* the AD Initiation Checklist which accompanies this notice.

Respondent Selection

In accordance with our standard practice for respondent selection in AD investigations involving NME countries, we intend to issue quantity and value questionnaires to each potential respondent named in the Petition,[46] and will base respondent selection on the responses received. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Enforcement and Compliance Web site (*http://trade.gov/enforcement/news.asp*). Exporters and producers of certain passenger tires from the PRC that do not receive quantity and value questionnaires via mail may still submit a quantity and value response, and can obtain a copy from the Enforcement and Compliance Web site. The quantity and value questionnaire must be submitted by all PRC exporters/producers no later than August 1, 2014. All quantity and value questionnaires must be filed electronically using IA ACCESS.

Separate Rates

In order to obtain separate rate status in an NME AD investigation, exporters and producers must submit a separate rate application.[47] The specific requirements for submitting the separate rate application in the PRC investigation are outlined in detail in the application itself, which will be available on the Department's Web site at *http://trade.gov/enforcement/news.asp* on the date of publication of this initiation notice in the **Federal Register**. The separate rate application will be due 60 days after the publication of this initiation notice. For exporters and producers who submit a separate rate status application and have been selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that the PRC respondents submit a response to the separate rate application by the deadline referenced above in order to receive consideration for separate rate status.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the

[36] *Id.*

[37] *See* Volume II of the Petition at II–10 and Exhibit II–23.

[38] *Id.* at II–10 through II–11.

[39] *Id.* at Exhibit II–23.

[40] *Id.* at Exhibit II–24.

[41] *Id.* at II–14 and Exhibits II–25 through II–26; *see also* AD Supplement at 5–9 and Exhibits II–SQ–3, II–SQ–5, and II–SQ–6.

[42] *See* Volume II of the Petition at II–14 through II–15 and Exhibits II–27, II–32, and II–33; *see also* AD Supplement at 10 and Exhibit II–SQ–12.

[43] *See* Volume II of the Petition at II–15 through II–16 and Exhibits II–29 and II–30; *see also* AD Supplement at 10–13 and Exhibits II–SQ–13 through II–SQ–17.

[44] *See* AD Initiation Checklist under the "Adjustments to Normal Value" section.

[45] *See* AD Supplement at Exhibit II–SQ–17 (chart titled "Weighted average labor rate; original Goodyear financial ratios only (profit reduced)").

[46] *See* Volume I of the Petition at Exhibit I–9.

[47] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005) (Separate Rates and Combination Rates Bulletin), available on the Department's Web site at *http://enforcement.trade.gov/policy/*).

period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[48]

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the Government of the PRC. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters to be satisfied by the provision of the public version of the Petition to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which the ITC receives notice from the Department of initiation of the investigation, whether there is a reasonable indication that imports of certain passenger tires from the PRC are materially injuring, or threatening material injury to, a U.S. industry.[49] A negative ITC determination will result in the investigation being terminated.[50] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: (1) The definition of factual information (19 CFR 351.102(b)(21)), and (2) the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information for this investigation.

Extension of Time Limits

On September 20, 2013, the Department published *Extension of Time Limits, Final Rule,*[51] which modified one regulation related to AD and CVD proceedings regarding the extension of time limits for submissions in such proceedings (19 CFR 351.302(c)). These modifications are effective for all segments initiated on or after October 21, 2013, and thus are applicable to this investigation. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm* prior to requesting an extension.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[52] Parties are hereby reminded that the Department issued a final rule with respect to certification requirements, effective August 16, 2013 and that the revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any AD or CVD proceedings initiated on or after August 16, 2013, including this investigation, should use the formats for the revised certifications provided at the end of the *Final Rule.*[53] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://enforcement.trade.gov/apo/index.html.*

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

Dated: July 14, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations

[48] *See* Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

[49] *See* section 733(a) of the Act.

[50] *Id.*

[51] *See* 78 FR 57790 (September 20, 2013).

[52] *See* section 782(b) of the Act.

[53] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at the following: *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book*, as updated annually.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope of this investigation are the following types of tires: (1) Racing car tires, defined as tires for use exclusively on a race track; such tires do not bear the symbol "DOT" on the sidewall; (2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book*; (3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires; and (4) non-pneumatic tires, such as solid rubber tires.

The products covered by the investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.00, 4011.99.85.00, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2014–17111 Filed 7–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD367

Endangered and Threatened Species; Recovery Plans

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

ACTION: Notice of availability; request for comments.

SUMMARY: We, NMFS, announce that the Proposed Endangered Species Act (ESA) Recovery Plan for Snake River Sockeye Salmon (Proposed Plan) is available for public review and comment. The Proposed Plan addresses the Snake River Sockeye Salmon (*Onchorhynchus nerka*) evolutionarily significant unit (ESU) listed as endangered under the ESA. The geographic area covered by the Proposed Plan is the Sawtooth Valley in Idaho including the Upper Salmon River and its tributaries, Stanley Lake, Redfish Lake, Yellowbelly Lake, Pettit Lake, and Alturas Lake. As required under the ESA, the Proposed Plan contains objective, measurable delisting criteria, site-specific management actions necessary to achieve the Proposed Plan's goals, and estimates of the time and costs required to implement recovery actions. We are soliciting review and comment from the public and all interested parties on the Proposed Plan.

DATES: We will consider and address, as appropriate, all substantive comments received during the comment period. Comments on the Proposed Plan must be received no later than 5 p.m. Pacific daylight time on September 19, 2014.

ADDRESSES: Please send written comments and materials to Rosemary Furfey, National Marine Fisheries Service, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232. Comments may also be submitted by email to: *nmfs.wcr.snakeriversockeyeplan@noaa.gov*. Please include "Comments on Snake River Sockeye Salmon Recovery Plan" in the subject line of the email. Comments may be submitted via facsimile (fax) to (503) 230–5441. Electronic copies of the Proposed Plan are available on the NMFS Web site at *http://www.westcoast.fisheries.noaa.gov/protected_species/salmon_steelhead/recovery_planning_and_implementation/snake_river/snake_river_salmon_recovery_subdomain.html*. Persons wishing to obtain an electronic copy on CD–ROM of the Proposed Plan may do so by calling Marcella LaFayette at (503) 231–2202 or by emailing a request to *marcella.lafayette@noaa.gov* with the subject line "CD–ROM Request for Snake River Sockeye Salmon Recovery Plan."

FOR FURTHER INFORMATION CONTACT: Rosemary Furfey, NMFS Snake River Sockeye Salmon Recovery Coordinator, at (503) 231–2149, or *rosemary.furfey@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

We are responsible for developing and implementing recovery plans for Pacific salmon and steelhead listed under the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*). Recovery means that the listed species and their ecosystems are sufficiently restored, and their future secured, to the point that the protections of the ESA are no longer necessary. Section 4(f)(1) of the ESA requires that recovery plans include, to the extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for each listed species unless such a plan would not promote its recovery.

We believe it is essential to have local support of recovery plans by those whose activities directly affect the listed species and whose continued commitment and leadership will be needed to implement the necessary recovery actions. We therefore support and participate in locally led, collaborative efforts to develop recovery plans that involve state, tribal, and federal entities, local communities, and other stakeholders. For this Proposed Plan for endangered Snake River Sockeye Salmon, we worked collaboratively with local state, tribal, and Federal partners to produce a recovery plan that satisfies the ESA requirements. We have determined that this *Proposed ESA Recovery Plan for Snake River Sockeye Salmon* meets the statutory requirements for a recovery plan and are proposing to adopt it as the ESA recovery plan for this endangered species. Section 4(f) of the ESA, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided prior to final approval of a recovery plan. This notice solicits comments on this Proposed Plan.

Development of the Proposed Plan

For the purpose of recovery planning for the ESA-listed species of Pacific salmon and steelhead in Idaho, Oregon and Washington, NMFS designated five geographically based "recovery domains." The Snake River Sockeye Salmon ESU spawning range is in the Interior Columbia domain. For each domain, NMFS appointed a team of scientists, nominated for their geographic and species expertise, to provide a solid scientific foundation for recovery plans. The Interior Columbia Technical Recovery Team included biologists from NMFS, other federal agencies, states, tribes, and academic institutions.

A primary task for the Interior Columbia Technical Recovery Team was to recommend criteria for determining when each component population with an ESU or distinct population segment (DPS) should be considered viable (i.e., when they are have a low risk of extinction over a 100-year period) and when ESUs or DPSs have a risk of extinction consistent with no longer needing the protections of the ESA. All Technical Recovery Teams used the

same biological principles for developing their recommendations; these principles are described in the NOAA technical memorandum *Viable Salmonid Populations and the Recovery of Evolutionarily Significant Units* (McElhany *et al.*, 2000). Viable salmonid populations (VSP) are defined in terms of four parameters: Abundance, productivity or growth rate, spatial structure, and diversity.

For this Proposed Plan, we collaborated with state, tribal and federal biologists and resource managers to provide technical information that NMFS used to write the Proposed Plan which is built upon locally-led recovery efforts. In addition, NMFS established a multi-state (Idaho, Oregon and Washington), tribal and federal partners' regional forum called the Snake River Coordination Group that addresses the four ESA-listed Snake River salmon and steelhead species. They met twice a year to be briefed and provide technical and policy information to NMFS. We presented regular updates on the status of this Proposed Plan to the Snake River Coordination Group and posted draft chapters on NMFS' West Coast Region Snake River recovery planning Web page.

In addition to the Proposed Plan, we developed and incorporated the *Module for the Ocean Environment* (Fresh *et al.* 2014) as Appendix B to address Snake River Sockeye Salmon recovery needs in the Columbia River estuary, plume, and Pacific Ocean. To address recovery needs related to the Lower Columbia River mainstem and estuary, we incorporated the *Columbia Estuary ESA Recovery Plan Module* (NMFS 2011) as Appendix C. To address recovery needs for fishery harvest management in the Salmon, Snake and Columbia Rivers mainstem, Columbia River estuary and ocean, we developed and incorporated the *Harvest Module* (NMFS 2014a) as Appendix D. To address recovery needs related to the Columbia River Hydropower System, we developed and incorporated the *Supplemental Recovery Plan Module for Snake River Salmon and Steelhead Mainstem Columbia River Hydropower Projects* (NMFS 2014b) as Appendix E of this Proposed Plan.

The Proposed Plan, including the recovery plan modules, is now available for public review and comment.

Contents of Proposed Plan

The Proposed Plan contains biological background and contextual information that includes description of the ESU, the planning area, and the context of the plan's development. It presents relevant information on ESU structure, guidelines for assessing salmonid population and ESU-level status, and a brief summary of Interior Columbia Technical Recovery Team products on population structure and species status. It also presents NMFS' proposed biological viability criteria and threats criteria for delisting.

The Proposed Plan also describes specific information on the following: Current status of Snake River Sockeye Salmon; limiting factors and threats for the full life cycle that contributed to the species decline; recovery strategies and actions addressing these limiting factors and threats; key information needs, and a proposed research, monitoring, and evaluation program for adaptive management. For recovery actions, the Proposed Plan includes a table summarizing each proposed action, together with the associated location, life stage affected, estimated costs, timing and potential implementing entity. It also describes how implementation, prioritization of actions, and adaptive management will proceed at the population and ESU scales. The Proposed Plan also summarizes time and costs (Section 9 and Appendix A) required to implement recovery actions. In addition to the information in the Proposed Plan, readers are referred to the recovery plan modules (Appendices B–E) for more information on all these topics.

How NMFS and Others Expect To Use the Plan

With approval of the final Plan, we will commit to implement the actions in the Plan for which we have authority and funding; encourage other federal and state agencies and tribal governments to implement recovery actions for which they have responsibility, authority and funding; and work cooperatively with the public and local stakeholders on implementation of other actions. We expect the Plan to guide us and other federal agencies in evaluating federal actions under ESA section 7, as well as in implementing other provisions of the ESA and other statutes. For example, the Plan will provide greater biological context for evaluating the effects that a proposed action may have on a species by providing delisting criteria, information on priority areas for addressing specific limiting factors, and information on how future populations within the ESU can tolerate varying levels of risk.

When we are considering a species for delisting, the agency will examine whether the section 4(a)(1) listing factors have been addressed. To assist in this examination, we will use the delisting criteria described in Section 3.3 of the Proposed Plan, which include both biological criteria and criteria addressing each of the ESA section 4(a)(1) listing factors, as well as any other relevant data and policy considerations.

We will also work with the proposed Snake River Sockeye Salmon Implementation and Science Team described in Section 10 of the Proposed Plan to develop implementation schedules that provide greater specificity for recovery actions to be implemented over three-to five-year periods. This Team will also help promote implementation of recovery actions and subsequent implementation schedules, and will track and report on implementation progress. The Implementation and Science Team, working together with NMFS staff, will coordinate the implementation of recovery actions among federal, state, tribal entities and local stakeholders.

Conclusion

Section 4(f)(1)(B) of the ESA requires that recovery plans incorporate, to the extent practicable, (1) objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. We conclude that the Proposed Plan meets the requirements of ESA section 4(f) and are proposing to adopt it as the *ESA Recovery Plan for Snake River Sockeye Salmon.*

Public Comments Solicited

We are soliciting written comments on the Proposed Plan. All substantive comments received by the date specified above will be considered and incorporated, as appropriate, prior to our decision whether to approve the plan. We will issue a news release announcing the adoption and availability of the final plan. We will post on the NMFS West Coast Region Web site (*www.wcr.noaa.gov*) a summary of, and responses to, the comments received, along with electronic copies of the final plan and its appendices.

Literature Cited

McElhany, P., M.H. Ruckelshaus, M.J. Ford, T.C. Wainwright, and E.P. Bjorkstedt. 2000. Viable salmon populations and the recovery of evolutionarily significant units. U.S. Dept. of Commerce, NOAA Tech. Memo., NMFS NWFSC 42, 156 p.

National Marine Fisheries Service (NMFS). 2011. Columbia River Estuary ESA

Recovery Plan Module for Salmon and Steelhead. Northwest Region. January 2011. Available at: *http://www.westcoast.fisheries.noaa.gov/protected_species/salmon_steelhead/recovery_planning_and_implementation/lower_columbia_river/lower_columbia_river_recovery_plan_for_salmon_steelhead.html.*

Authority: 16 U.S.C. 1531 *et seq.*

Dated: July 14, 2014.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–17023 Filed 7–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD397

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice; public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold public hearings for Sector Separation—Amendment 40.

DATES: The public hearings will be held from Monday, August 4 through Tuesday, August 19, 2014 at eight locations throughout the Gulf of Mexico. The public hearings will begin at 6 p.m. and will conclude no later than 9 p.m. For specific dates and locations see **SUPPLEMENTARY INFORMATION** below.

ADDRESSES:

Meeting address: The public hearings will be held in the following locations: Orange Beach and Mobile, AL; Gulfport, MS; Panama City and St. Petersburg, FL; Baton Rouge, LA; and Galveston and Port Aransas, TX.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *assane.diagne@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion in the public hearings are as follows:

Sector Separation—Amendment 40

Defines distinct private angling and federal for-hire components of the recreational red snapper fishery and allocate red snapper resources between these recreational components.

The public hearings will begin at 6 p.m. and conclude at the end of public testimony or no later than 9 p.m. at the following locations:

Monday, August 4, 2014, Hilton Galveston Island Hotel, 5400 Seawall Boulevard, Galveston Island, TX 77551 (409) 744–5000; Sirata Beach Hotel, 5300 Gulf Boulevard, St. Pete Beach, FL 33706; telephone: (727) 897–5200;

Tuesday, August 5, 2014, Plantation Suites & Conference Center, 1909 State Highway 361, Port Aransas, TX 78373; telephone: (361) 749–3866;

Wednesday, August 6, 2014, Fairfield Inn & Suites by Marriott, 3111 Loop Road, Orange Beach, AL 36561; telephone: (251) 543–4444;

Thursday, August 7, 2014, Renaissance Mobile Riverview Plaza Hotel, 64 South Water Street, Mobile, AL 36602; telephone: (251) 438–4000;

Tuesday, August 12, 2014, Holiday Inn Select, 2001 MLK Boulevard, Panama City, FL 32405; telephone: (866) 866–0441;

Monday, August 18, 2014, Hyatt Place Baton Rouge, 6080 Bluebonnet Boulevard, Baton Rouge, LA 70808; telephone: (225) 769–4400; and

Tuesday, August 19, 2014, Courtyard by Marriott Gulfport Beachfront, 1600 E. Beach Boulevard, Gulfport, MS 39501; telephone: (228) 864–4310.

Copies of the public hearing documents can be obtained by calling (813) 348–1630 or visiting *www.GulfCouncil.org.*

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 Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working 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: July 16, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–17026 Filed 7–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD398

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a meeting of the Socioeconomic Scientific and Statistical Committee (SSC).

DATES: The meeting will be held from 9 a.m. until 5 p.m. on Tuesday, August 5, 2014.

ADDRESSES:

Meeting address: The meeting will be held at the Council's office.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL, 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *assane.diagne@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are as follows:

Socioeconomic SSC Agenda, Tuesday, August 5, 2014, 9 a.m. Until 5 p.m.

1. Adoption of Agenda
2. Reef Fish Amendment 28—*Red Snapper* Allocation
3. Discussion and Review

—Review of Agar and Carter's Economic Analysis of *Red Snapper* Allocation Alternatives for Reef Fish Amendment 28 (King and Buc)

—Comments on the King and Buc Review (Bergstrom and Southwick Associates)

—Review of NOAA Technical Memorandum NMFS–NWFSC–115 Allocation of Fishery Harvests under

the Magnuson-Stevens Fishery Conversation and Management Act: Principles and Practice

4. Recommendations to the Council
5. Incorporating Economics into Stock Assessments
6. Other Business

For meeting materials see folder "Socioeconomic SSC meeting—2014–08" on Gulf Council file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi*, or go to the Council's Web site and click on the FTP link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both "gulfguest". The name of the folder on the FTP server is "Socioeconomic SSC meeting—2014—08".

The Agenda is subject to change. The latest version will be posted in the "Socioeconomic SSC meeting—2014–08" folder on the Council's file server. The meeting will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

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 Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working 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: July 16, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–17024 Filed 7–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD399

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice; public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a meeting of the Standing, Special Reef Fish and Special Shrimp Scientific and Statistical Committees (SSC).

DATES: The meetings will be held from 1 p.m. Wednesday, August 6 until 1 p.m., Thursday, August 7, 2014.

ADDRESSES:

Meeting address: The meetings will be held at the Gulf Council's office.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *steven.atran@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion in the individual meeting agendas are as follows:

Standing SSC and Standing and Special Reef Fish SSC Agenda, Wednesday, August 6, 2014, 1 p.m. Until 5 p.m.

Standing SSC Agenda

1. Adoption of Agenda
2. Election of Chair and Vice-chair
3. Alternative ABC Control Rule Analyses
4. Review of Options Paper to Define Status Determination Criteria and Optimum Yield for All Finfish Stocks
5. Other Standing SSC Business

Standing and Special Reef Fish SSC Agenda

1. Approval of June 3–5, 2013 Standing, Ecosystem and Special Reef Fish SSC summary minutes
2. Gag OFLs and ABCs
3. Terms of Reference
   a. FWC Black Grouper Update Assessment
   b. SEDAR Red Snapper Update Assessment
4. SEDAR 42 (Red Grouper Benchmark) Data Workshop Participant Needed
5. Review of SEDAR Schedule
6. Other Reef Fish SSC Business

Standing and Special Shrimp SSC Agenda, Thursday, August 7, 2014, 8 a.m. Until 1p.m.

1. Approval of March 19, 2014 Standing and Special Shrimp SSC summary minutes
2. Review 2 year provision addition for Action 1.1 and Action 1.2 of Shrimp Amendment 15
3. Discuss upcoming Shrimp Amendment 17 Data Needs and Analyses including: Biological Yield, Economic Yield, CPUE, Shrimping Effort, and Permit Activity Over Time
4. Selection of SSC representative at August 25–29, 2014 Council meeting (Biloxi)
5. Other Shrimp SSC Business

The Agenda is subject to change, and the latest version will be posted on the Council's file server, which can be accessed by going to the Council Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. The meetings will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the Scientific and Statistical Committees will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working 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: July 16, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–17088 Filed 7–18–14; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Thursday, July 31, 2014, 10:30–12:30 p.m. (ET).

PLACE: Time Warner, One Time Warner Center in the Time Warner Conference Center, New York, NY 10019 (upon arrival, security will escort you to the board room).

CALL-IN INFORMATION: This meeting is available to the public through the following toll-free call-in number: 800–988–9777 conference call access code number 6764819. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and CNCS will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Replays are generally available one hour after a call ends. The toll-free phone number for the replay is 866–430–4718. TTY: 800–833–3722. The end replay date is August 31, 2014, 10:59 p.m. (CT).

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Opening Comments
  a. Call to Order, Welcome, and Preview of Today's Meeting Agenda
  b. Introduction and Acknowledgements
  c. Summary of Retreat
II. Consideration of Previous Meeting's Minutes
III. CEO Report
IV. National Service Testimonials
V. Public Comments
VI. Final Comments and Adjournment

Members of the public who would like to comment on the business of the Board may do so in writing or in person. Individuals may submit written comments to *jmauk@cns.gov* subject line: JULY 2014 CNCS BOARD MEETING by 4:00 p.m. (ET) on July 25, 2014. Individuals attending the meeting in person who would like to comment will be asked to sign-in upon arrival. Comments are requested to be limited to 2 minutes.

REASONABLE ACCOMMODATIONS: The Corporation for National and Community Service provides reasonable accommodations to individuals with disabilities where appropriate. Anyone who needs an interpreter or other accommodation should notify Ida Green at *igreen@cns.gov* or 202–606–6861 by 5 p.m. (ET) on July 24, 2014.

CONTACT PERSON FOR MORE INFORMATION: Jenny Mauk, Special Assistant to the CEO, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525. Phone: 202–606–6615. Fax: 202–606–3460. TTY: 800–833–3722. Email: *jmauk@cns.gov.*

Dated: July 17, 2014.

Valerie Green,

General Counsel.

[FR Doc. 2014–17234 Filed 7–17–14; 4:15 pm]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of Defense Military Family Readiness Council (MFRC); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing this notice to announce a Federal advisory committee meeting of the Department of Defense Military Family Readiness Council. This meeting will be open to the public.

DATES: Monday, August 18, 2014, from 1:30 p.m. to 3:30 p.m.

ADDRESSES: Pentagon Conference Center B6 (escorts will be provided from the Pentagon Metro entrance).

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Ms. Yuko Whitestone, Office of the Deputy Assistant Secretary of Defense (Military Community & Family Policy), 4800 Mark Center Drive, Alexandria, VA 22350–2300, Room 3G15. Telephones (571) 372–0880; (571) 372–0881 and/or email: OSD Pentagon OUSD P–R Mailbox Family Readiness Council *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.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. The purpose of the Council meeting is to review and make recommendations to the Secretary of Defense regarding policy and plans; monitor requirements for the support of military family readiness by the Department of Defense; and evaluate and assess the effectiveness of the military family readiness programs and activities of the Department of Defense. 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. Persons desiring to attend may contact Ms. Melody McDonald at 571–372–0880 or email OSD Pentagon OUSD P–R Mailbox Family Readiness Council *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil* no later than 5:00 p.m., on Friday, August 8, 2014 to arrange for escort inside the Pentagon to the Conference Room area.

Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Council about its approved agenda pertaining to the meeting, or at any time on the Council's mission. Persons desiring to submit a written statement to the Council must notify the point of contact listed in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., on Friday, August 8, 2014.

The purpose of this meeting is to continue discussion of Military Family Readiness Council focus items for 2014.

Monday, August 18, 2014 Meeting Agenda

Welcome & Administrative Remarks.
Spouse Support Programs, including the Military Spouse Employment Partnership.
Service Member Transition, including efforts supporting transitioning families, efforts supporting Guard and Reserve families, and the Veterans Employment Center project.
Support to Military Caregivers, including outreach, training, and medical services.
Closing Remarks.

Note: Exact order may vary.

Dated: July 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–17000 Filed 7–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Judicial Proceedings Since Fiscal Year 2012 Amendments Panel; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Judicial Proceedings since Fiscal Year 2012 Amendments Panel ("the Judicial Proceedings Panel" or "the Panel"). The meeting is open to the public.

DATES: A meeting of the Judicial Proceedings Panel will be held on Thursday, August 7, 2014. The Public Session will begin at 10:00 a.m. and end at 5:00 p.m.

ADDRESSES: The George Washington University Law School, Faculty Conference Center, 5th Floor, 716 20th Street NW., Washington, DC 20052.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Carson, Judicial Proceedings Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, VA 22203. Email: *whs.pentagon.em.mbx.judicial-panel@mail.mil.* Phone: (703) 693–3849. Web site: *http://jpp.whs.mil.*

SUPPLEMENTARY INFORMATION: This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: At this meeting, the Judicial Proceedings Panel will deliberate on the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), Section 576(a)(2) requirement to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice involving adult sexual assault and related offenses since the amendments made to the Uniform Code of Military Justice by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81; 125 Stat. 1404), for the purpose of developing recommendations for improvements to such proceedings. The Panel is interested in written and oral comments from the public, including non-governmental organizations, relevant to this tasking.

Agenda

- 8:30 a.m.–10:00 a.m. Administrative Session (41 CFR § 160(b), closed to the public)
- 10:00 a.m.–10:10 a.m. Comments from the Panel Chair
- 10:10 a.m.–11:00 a.m. Military Justice Discussion and Legislation Update
- 11:00 a.m.–12:00 p.m. Discussion of the Response Systems to Adult Sexual Assault Crimes Panel Report
- 12:00 p.m.–1:00 p.m. Lunch
- 1:00 p.m.–2:30 p.m. Rape and Sexual Assault Laws in the United States
- 2:30 p.m.–4:00 p.m. Evolution of Article 120 of the UCMJ
- 4:00 p.m.–4:45 p.m. Panel Deliberations
- 4:45 p.m.–5:00 p.m. Public Comment

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the August 7, 2014 meeting, as well as other materials presented in the meeting, may be obtained at the meeting or from the Panel's Web site at *http://jpp.whs.mil.*

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the JPP staff at *whs.pentagon.em.mbx.judicial-panel@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by the JPP staff at least five (5) business days prior to the meeting date so that they may be made available to the Judicial Proceedings Panel for their consideration prior to the meeting. Written comments should be submitted via email to *whs.pentagon.em.mbx.judicial-panel@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Judicial Proceedings Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted along with a request to provide an oral statement. Oral presentations by members of the public will be permitted between 4:45 p.m. and 5:00 p.m. on August 7, 2014, in front of the Panel. The number of oral presentations to be made will depend on the number of requests received from members of the public on a first-come basis. After reviewing the requests for oral presentation, the Chairperson and the Designated Federal Officer will, having determined the statement to be relevant to the Panel's mission, allot five minutes to persons desiring to make an oral presentation.

Committee's Designated Federal Officer: The Board's Designated Federal Officer is Ms. Maria Fried, Judicial Proceedings Panel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: July 16, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–17060 Filed 7–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Grant an Exclusive License of U.S. Government-Owned Invention

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209(e), and 37 CFR 404.7(a)(1)(i) and 37 CFR 404.7(b)(1)(i), announcement is made of the intent to grant an exclusive, revocable license to the invention claimed in Invention Disclosure RIID 14–26 entitled "Ricin Immunodiagnostic Assay." The intended licensee is Defence Science Organisation National Laboratories with its principal place of business at 20 Science Park Drive, Singapore 118230.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For licensing issues, Dr. Paul Mele, Office of Research & Technology Applications, (301) 619–6664. For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808; both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to grant of this license can file written objections along with supporting evidence, if any, within 15 days from the date of this publication. Written objections are to be filed with the Command Judge Advocate (see **ADDRESSES**).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–17112 Filed 7–18–14; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF ENERGY

Quadrennial Energy Review: Notice of Public Meeting

AGENCY: Office of Energy Policy and Systems Analysis, Secretariat, Quadrennial Energy Review Task Force, Department of Energy.

ACTION: Notice of public meeting: Correction.

SUMMARY: The Department of Energy published in the **Federal Register** on July 1, 2014, a notice of a public meeting to discuss and receive comments on issues related to the Quadrennial Energy Review. The notice is being corrected to change the time of the meeting.

Correction

In the **Federal Register** of July 1, 2014, in FR DOC. 2014–15388, on page 37302, please make the following correction:

In the **DATES** heading, first column, third line, remove 9:00 a.m. and in its place add 10:00 a.m.

Issued in Washington, DC, on July 15 2014.

Michele Torrusio,

QER Secretariat, QER Interagency Task Force, U.S. Department of Energy.

[FR Doc. 2014–17054 Filed 7–18–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This document is being issued under the authority of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Concerning Civil Uses of Nuclear Energy Between the Government of the United States of America and the Government of Canada and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community.

DATES: This subsequent arrangement will take effect no sooner than August 5, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Katie Strangis, Office of Nonproliferation and International Security, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–8623 or email: *Katie.Strangis@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: This subsequent arrangement concerns the retransfer of 295,858 kg of U.S.-origin natural uranium hexafluoride (UF6) (67.6% U), 200,000 kg of which is uranium, from Cameco Corporation (Cameco) in Saskatoon, Saskatchewan, to Urenco Ltd. (URENCO) in Capenhurst, United Kingdom. The material, which is currently located at Cameco in Port Hope, Ontario, will be used for toll enrichment by URENCO at its facility in Capenhurst, United Kingdom. The material was originally obtained by Cameco from Power Resources, Inc., Cameco Resources-Crowe Butte Operation, and White Mesa Mill pursuant to export license XSOU8798.

In accordance with section 131a. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement concerning the retransfer of nuclear material of United States origin will not be inimical to the common defense and security of the United States of America.

Dated: June 23, 2014.

For the Department of Energy.

Anne M. Harrington,

Deputy Administrator, Defense Nuclear Nonproliferation.

[FR Doc. 2014–16932 Filed 7–18–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC14–10–000]

Commission Information Collection Activities (FERC–725E, FERC–583, FERC–512, and FERC–588); Comment Request

AGENCY: Federal Energy Regulatory Commission.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 USC 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collections FERC–725E (Mandatory Reliability Standards—WECC), FERC–583 (Annual Kilowatt Generating Report), FERC–512 (Application for Preliminary Permit), FERC–588 (Emergency Natural Gas Transportation, Sale, and Exchange) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously issued a Notice in the **Federal Register** (79 FR 19888, 4/2/2014) requesting public comments. The Commission received no comments on the FERC–725E, FERC–583, FERC–512, or FERC–588 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by August 20, 2014.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0073 (FERC–512), 1902–0136 (FERC–583), 1902–0144 (FERC–588), or 1902–0246 (FERC–725E) and should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Commission, in Docket No. IC14–10–000, by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov*, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov*, by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Type of Request: Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of

information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FERC–725E, Mandatory Reliability Standards for the Western Electric Coordinating Council

OMB Control No.: 1902–0246.

Abstract: The information collected by the FERC–725E (OMB Control No. 1902–0246) is required to implement the statutory provisions of section 215 of the Federal Power Act (FPA) (16 U.S.C. 824o). Section 215 of the FPA buttresses the Commission's efforts to strengthen the reliability of the interstate grid through the grant of new authority by providing for a system of mandatory Reliability Standards developed by the Electric Reliability Organization. Reliability Standards that the ERO proposes to the Commission may include Reliability Standards that are proposed to the ERO by a Regional Entity.[1] A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO.[2] On June 8, 2008 in an adjudicatory order, the Commission approved eight regional Reliability Standards submitted by the ERO that were proposed by the Western Electricity Coordinating Council (WECC).[3]

WECC is responsible for coordinating and promoting electric system reliability. In addition to promoting a reliable electric power system in the Western Interconnection, WECC supports efficient competitive power markets, ensures open and non-discriminatory transmission access among members, and provides a forum for resolving transmission access disputes plus the coordination of operating and planning activities of its members.

There are eight Reliability Standards currently applicable in the WECC region. These standards generally require entities to document compliance with substantive requirements, retain documentation, and submit reports to WECC.

- BAL–002–WECC–2 requires balancing authorities and reserve sharing groups to document compliance with the contingency reserve requirements described in the standard.
- BAL–004–WECC–02 requires balancing authorities to document that time error corrections and primary inadvertent interchange payback were conducted according the requirements in the standard.
- FAC–501–WECC–1 requires transmission owners with certain transmission paths to have a transmission maintenance and inspection plan and to document maintenance and inspection activities according to the plan.
- IRO–006–WECC–1 requires balancing authorities and reliability coordinators document actions taken to mitigate unscheduled flow.
- PRC–004–WECC–1 requires transmission owners, generator owners and transmission operators to document their analysis and/or mitigation due to certain misoperations on major transfer paths. This standard requires that documentation be kept for six years.
- TOP–007–WECC–1 requires transmission operators to document that when actual flows on major transfer paths exceed system operating limits their schedules and actual flows are not exceeded for longer than a specified time.
- VAR–002–WECC–1 requires generator operators and transmission operators to provide quarterly reports to the compliance monitor and have evidence related to their synchronous generators, synchronous condensers, and automatic voltage regulators.
- VAR–501–WECC–1 requires generator operators to provide quarterly reports to the compliance monitor and have evidence regarding operation of their power system stabilizers.

The information generated by these standards generally serves to ensure entities are complying with applicable Reliability Standards.

Type of Respondents: Balancing authorities, reserve sharing groups, transmission owners, reliability coordinators, transmission operators, generator operators.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:[4]

FERC–725E, Mandatory Reliability Standards for the Western Electric Coordinating Council

FERC data collection	Number of respondents[5] (1)	Annual number of responses per respondent (2)	Average burden hours & cost per response[6] (3)	Total annual burden hours & total annual cost (1)*(2)*(3)
FERC–725E				
Reporting:				
Balancing Authorities	34	1	21, $1,527	714, $51,918
Generator Operators	228	1	10, $727	2,280, $165,756
Transmission Operators applicable to standard VAR–002[7]	86	4	10, $727	3,440, $250,088
Transmission Operators that operate qualified transfer paths[8]	9	3	40, $2,908	1,080, $78,516
Transmission Owners that operate qualified transfer paths[9]	5	3	40, $2,908	600, $43,620
Reliability Coordinators	1	1	1, $73	1, $73

[1] 16 U.S.C. 824o(e)(4).

[2] 16 U.S.C. 824o(a)(7) and (e)(4).

[3] 72 FR 33462, June 18, 2007.

[4] The initial public notice did not include the dollar figures associated with the burden hours below. The burden hours have not been modified since the issuance of the initial public notice.

[5] Number of respondents derived from the NERC Compliance Registry as of February 25, 2014.

[6] The total annual cost is derived from salary figures from the Bureau of Labor Statistics for three positions involved in the reporting and record-keeping associated with this collection. These figures include salary (*http://bls.gov/oes/current/naics2_22.htm*) and other associated benefits (*http://www.bls.gov/news.release/ecec.nr0.htm*):

- Manager: $84.72/hour.
- Engineer: $60.70/hour.
- File Clerk: $28.93/hour.

This wage for the reporting requirements is an average of a manager and engineer wages ($72.71). The wage for recordkeeping requirements is based on the File Clerk position.

[7] Based on estimates in Order 751, Docket No. RM09–9–000.

[8] Based on burden estimates taken from the Order in Docket No. RR07–11–000 P. 130.

[9] *Id.*

FERC–725E, MANDATORY RELIABILITY STANDARDS FOR THE WESTERN ELECTRIC COORDINATING COUNCIL—Continued

FERC data collection		Number of respondents[5] (1)	Annual number of responses per respondent (2)	Average burden hours & cost per response[6] (3)	Total annual burden hours & total annual cost (1)*(2)*(3)
Reserve Sharing Group		3	1	1, $73	3, $219
Total					8,118, $590,190
Record-keeping[10]	Balancing Authorities				71, $2,054
	Balancing Authorities (IRO–006)[11]				34, $984
	Generator Operators				228, $6,596
	Transmission Operator (VAR–002)				344, $9,952
	Transmission Operator				108, $3,124
	Transmission Owner				60, $1,736
	Reliability Coordinator[12]				34, $984
Total					879, $25,430

FERC–583, Annual Kilowatt Generating Report (Annual Charges)

OMB Control No.: 1902–0136.

Abstract: The FERC–583 is used by the Commission to implement the statutory provisions of section 10(e) of the Federal Power Act (FPA) (16 U.S.C. 803(e)), which requires the Commission to collect annual charges from hydropower licensees for, among other things, the cost of administering Part I of the FPA and for the use of United States dams. In addition, section 3401 of the Omnibus Budget Reconciliation Act of 1986 (OBRA) authorizes the Commission to ''assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.'' The information is collected annually and used to determine the amounts of the annual charges to be assessed licensees for reimbursable government administrative costs and for the use of government dams. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 11.

Type of Respondent: FERC-regulated private and public hydropower licensees.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–583, ANNUAL KILOWATT GENERATING REPORT

[Annual Charges]

Number of respondents[13] (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response[14] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)+(1)
517	1	517	2, $141	1,034, $72,897	$141

FERC–512, Application for Preliminary Permit

OMB Control No.: 1902–0073.

Abstract: The Commission uses the information collected under the requirements of FERC–512 to implement the statutory provisions of sections 4(f), 5 and 7 of the Federal Power Act (FPA).[15] The purpose of obtaining a preliminary permit is to maintain priority of the application for a license for a hydropower facility while the applicant conducts surveys to prepare maps, plans, specifications and estimates; conducts engineering, economic and environmental feasibility studies; and making financial arrangements. The conditions under which the priority will be maintained are set forth in each permit. During the term of the permit, no other application for a preliminary permit or application for a license submitted by another party can be accepted. The term of the permit is three years. The information collected under the designation FERC–512 is in the form of a written application for a preliminary permit which is used by Commission staff to determine an applicant's qualifications to hold a preliminary permit, review the proposed hydro development for feasibility and to issue a notice of the application in order to solicit public and agency comments. The Commission implements these mandatory filing requirements in the Code of Federal Regulations (CFR) under 18 CFR 4.31-.33, 4.81-.83.

Type of Respondents: Hydropower facilities.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

[10] Based on 10% total annual burden hours per response.

[11] Based on record keeping hours for Balancing Authorities in Order 746 in Docket No. RM09–19–000 implementing IRO–006–WECC–1.

[12] Based on record keeping hours in Order 746 in Docket No. RM09–19–000.

[13] Based on data from Fiscal Year 2013, there were 517 projects, owned by 241 FERC-regulated private and public licensees. Many of the licensees owned multiple projects.

[14] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $70.50 per hour.

[15] 16 U.S.C. 797, 798, & 800.

FERC–512: Application for Preliminary Permit

Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden/$ per response [16]	Total annual burden hours (total annual cost)	Cost per respondent ($)
(1)	(2)	(1)*(2)=(3)	(4)	(3)*(4)=(5)	(5)÷(1)
125	1	125	37,$2,608.50	4,625, $326,062.50	$2,608.50

FERC–588, Emergency Natural Gas Transportation, Sale, and Exchange Transportation

OMB Control No.: 1902–0144.

Abstract: The Commission uses the information collected under the requirements of FERC–588 to implement the statutory provisions of sections 7(c) of the Natural Gas Act (NGA) (P.L. 75–688) (15 USC 717–717w) and provisions of the Natural Gas Policy Act of 1978 (NGPA), 15 USC. 3301–3432. Under the NGA, a natural gas company must obtain Commission approval to engage in the transportation, sale or exchange of natural gas in interstate commerce. However, section 7(c) exempts from certificate requirements "temporary acts or operations for which the issuance of a certificate will not be required in the public interest." The NGPA also provides for non-certificated interstate transactions involving intrastate pipelines and local distribution companies.

A temporary operation, or emergency, is defined as any situation in which an actual or expected shortage of gas supply would require an interstate pipeline company, intrastate pipeline, local distribution company, or Hinshaw pipeline to curtail deliveries of gas or provide less than the projected level of service to the customer. The natural gas companies which provide the temporary assistance to the companies which are having the "emergency" must file the necessary information described in Part 284, Subpart I of the Commission's Regulations with the Commission so that it may determine if their assisting transaction/operation qualifies for exemption. The assisting company may or may not be under the Commission's jurisdiction and if their assisting actions qualify for the exemption, they will not become subject to the Commission's jurisdiction for such actions.

A report within forty-eight hours of the commencement of the transportation, sale or exchange, a request to extend the sixty-day term of the emergency transportation, if needed, and a termination report are required. The data required to be filed for the forty-eight hour report is specified by 18 CFR 284.270.

Type of Respondents: Natural Gas Pipelines.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–588: Emergency Natural Gas Transportation, Sale, and Exchange Transportation

Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden/$ per response [17]	Total annual burden hours (total annual cost)	Cost per respondent ($)
(1)	(2)	(1)*(2)=(3)	(4)	(3)*(4)=(5)	(5)÷(1)
8	1	8	10, $705	80, $5,640	$705

Dated: July 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17044 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP14–509–000; PF14–4–000]

Paiute Pipeline Company; Notice of Application

Take notice that on June 27, 2014, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193–4197, filed an application in Docket No. CP14–509–000, pursuant to section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations, for authority to construct, and operate certain pipeline and associated facilities for its 2015 Elko Area Expansion Project (Project) located in Elko County, Nevada. The Project will consist of construction of approximately 35.2 miles of 8-inch diameter pipeline extending from a new interconnect with Ruby Pipeline, L.L.C. to Paiute's existing Elko Lateral near the Elko Nevada City Gate, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Mark A. Litwin, Vice President/General Manager, Paiute Pipeline Company, P.O. Box 94197, Las Vegas, Nevada 89193–4197 or by calling 702–364–3195.

On October 31, 2013, Commission staff granted Paiute's request to use the pre-filing process and assigned Docket No. PF14–4–000 to staff activities involving the project. Now, as of the filing of this application on June 27, 2014, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP14–509 as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's regulations, 18 CFR

[16] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $70.50 per hour.

[17] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $70.50 per hour.

157.9, within 90 days of this Notice, the Commission's 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's staff issuance of the 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 reach a final decision on a request for federal authorization within 90 days of the date of issuance of the Commission staff's 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 commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: 5:00 p.m. Eastern Time on July 31, 2014.

Dated: July 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17046 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–511–000]

Kinder Morgan Louisiana Pipeline LLC; Notice of Application

Take notice that on June 30, 2014, Kinder Morgan Louisiana Pipeline LLC (KMLP), 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, filed in Docket No. CP14–511–000, an application pursuant to section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, for a certificate of public convenience and necessity to construct and operate certain facilities located in Calcasieu Parish, Louisiana known as the Lake Charles Expansion Project.

Specifically, KMLP request to construct approximately 1.3 miles of header pipeline, a new 64,000 horsepower (hp) compressor station, and modification of five existing delivery points in Calcasieu and Acadia Parishes, Louisiana. The proposal will provide 1,400 million cubic feet (MMcf) per day of firm north-to-south transportation capacity to deliver natural gas to the proposed liquefaction and export facility to be constructed by Magnolia LNG, LLC in Docket No.CP14–347–000. The estimated cost of the project is $201.9 million, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Bruce H. Newsome, Vice President, Kinder Morgan Louisiana Pipeline LLC, 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, phone: (630) 725–3070 or email: *bruce_newsome@kindermorgan.com*.

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 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on August 1, 2014.

Dated: July 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17042 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[City of Radford Electric Utilities; Project No. 1235–016]

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 1235–016.

c. *Date Filed:* May 23, 2014.

d. *Submitted By:* City of Radford Electric Utilities.

e. *Name of Project:* Municipal Hydroelectric Project.

f. *Location:* The Municipal Hydroelectric Project is located on the Little River near the city of Radford, in Montgomery and Pulaski counties, Virginia. The project does not affect federal lands.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Tim Logwood, City of Radford Electric Utilities, 701 17th Street, Radford, Virginia 24141; (540) 731–3641 or email at *tlogwood@radford.va.us*.

i. *FERC Contact:* Allyson Conner at (202) 502–6082 or email at *allyson.conner@ferc.gov*.

j. City of Radford Electric Utilities (Radford) filed its request to use the Traditional Licensing Process on May 23, 2014. Radford provided public notice of its request on May 21, 2014. In a letter dated July 11, 2014, the Director of the Division of Hydropower Licensing approved Radford's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the Virginia State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Radford as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Radford filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 1235–016. Pursuant to CFR 16.8, 16.9, and 16.10 each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2017.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: July 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17049 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–781–003.

Applicants: Southwest Power Pool, Inc.

Description: Compliance Filing—Docket No. ER14–781—Generator Interconnection Process to be effective 3/1/2014.

Filed Date: 7/14/14.

Accession Number: 20140714–5170.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER14–1750–001.

Applicants: Consolidated Edison Company of New York, New York Independent System Operator, Inc.

Description: Con Ed filing: first composite O&M Agrmnt No. 2013 w/ NYPA—Astoria Annex to be effective 4/23/2014.

Filed Date: 7/14/14.

Accession Number: 20140714–5154.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER14–2227–000.

Applicants: El Paso Electric Company.

Description: Amendment to June 20, 2014 El Paso Electric Company tariff filing.

Filed Date: 7/10/14.

Accession Number: 20140710–5095.

Comments Due: 5 p.m. ET 7/31/14.

Docket Numbers: ER14–2417–000.

Applicants: PJM Interconnection, L.L.C.

Description: Service Agreement No. 2150; Queue No. X4–027 to be effective 6/13/2014.

Filed Date: 7/14/14.

Accession Number: 20140714–5125.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER14–2418–000.

Applicants: South Carolina Electric & Gas Company.

Description: Order No. 1000 Compliance Filing to be effective 4/19/2013.

Filed Date: 7/14/14.

Accession Number: 20140714–5130.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER14–2419–000.

Applicants: ISO New England Inc.

Description: Compliance Filing of Two-Settlement FCM Design ? Part 1 of 2 to be effective 6/9/2014.

Filed Date: 7/14/14.

Accession Number: 20140714–5158.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER14–2420–000.

Applicants: RE Columbia, LLC.

Description: New Baseline—Shared Facilities Agr and Co-Tenancy Agr (Rate Scheds 1 and 2) to be effective 9/7/2014.

Filed Date: 7/14/14.

Accession Number: 20140714–5169.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER14–2421–000.

Applicants: Infinite Energy Corporation.

Description: MBR Application to be effective 8/14/2014.

Filed Date: 7/14/14.

Accession Number: 20140714–5174.

Comments Due: 5 p.m. ET 8/4/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–17084 Filed 7–18–14; 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: ER11–2127–005.

Applicants: Terra-Gen Dixie Valley, LLC.

Description: OATT Compliance Filing to be effective 5/14/2011.

Filed Date: 7/14/14.

Accession Number: 20140714–5043.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER11–2370–003; ER10–2218–002; ER10–2211–002.

Applicants: Cambria CoGen Company, Orlando CoGen Limited, L.P., Vandolah Power Company, L.L.C.

Description: Notice of Non-Material Change in Status of Cambria CoGen Company, et. al.

Filed Date: 7/11/14.

Accession Number: 20140711–5175.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2185–001.

Applicants: EFS Parlin Holdings, LLC.

Description: Supplement to July 1, 2014 EFS Parlin Holdings, LLC tariff filing.

Filed Date: 7/11/14.

Accession Number: 20140711–5060.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2399–000.

Applicants: Southwest Power Pool, Inc.

Description: Revisions in Attachment AE—Integrated Marketplace to be effective 9/8/2014.

Filed Date: 7/10/14.

Accession Number: 20140710–5155.

Comments Due: 5 p.m. ET 7/31/14.

Docket Numbers: ER14–2407–001.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Winter 2014–15 Reliability Program (Part 2 of 2) to be effective 12/3/2014.

Filed Date: 7/11/14.

Accession Number: 20140711–5141.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2407–002.

Applicants: ISO New England Inc.

Description: XML Errata Filing to Winter 2014–15 Reliability Program (Part 2 of 2) to be effective 12/3/2014.

Filed Date: 7/14/14.

Accession Number: 20140714–5048.

Comments Due: 5 p.m. ET 8/4/14.

Docket Numbers: ER14–2409–000.

Applicants: Chambers Cogeneration, Limited Partnership.

Description: First Revised MBR re 784 to be effective 7/12/2014.

Filed Date: 7/11/14.

Accession Number: 20140711–5159.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2410–000.

Applicants: Logan Generating Company, L.P.

Description: 1st Revised MBR to be effective 7/12/2014.

Filed Date: 7/11/14.

Accession Number: 20140711–5161.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2411–000.

Applicants: Edgecombe Genco, LLC.

Description: 1st Revised MBR re 784 to be effective 7/12/2014.

Filed Date: 7/11/14.

Accession Number: 20140711–5163.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2412–000.

Applicants: Northampton Generating Company, L.P.

Description: 2nd Revised MBR re 784 to be effective 7/12/2014.

Filed Date: 7/11/14.

Accession Number: 20140711–5164.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2413–000.

Applicants: Selkirk Cogen Partners, L.P.

Description: 1st Revised MBR to be effective 7/12/2014.

Filed Date: 7/11/14.

Accession Number: 20140711–5165.

Comments Due: 5 p.m. ET 8/1/14.

Docket Numbers: ER14–2414–000.
Applicants: Dominion Solar Gen-Tie, LLC.
Description: Baseline Filing—DSGT Shared Facilities Agreement, Rate Sched. No. 1 to be effective 9/7/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5166.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2415–000.
Applicants: Alta Wind VIII, LLC.
Description: Alta Wind VIII MBR Tariff Filing to be effective 7/12/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5167.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2416–000.
Applicants: Spruance Genco, LLC.
Description: 1st Revised MBR to be effective 7/12/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5169.
Comments Due: 5 p.m. ET 8/1/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–37–000.
Applicants: AEP Generating Company.
Description: Amended and Restated Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of AEP Generating Company.
Filed Date: 7/11/14.
Accession Number: 20140711–5176.
Comments Due: 5 p.m. ET 7/21/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–17083 Filed 7–18–14; 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: ER10–2290–003.
Applicants: Avista Corporation.
Description: Notice of Non-Material Change of Status.
Filed Date: 7/11/14.
Accession Number: 20140711–5029.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–485–002.
Applicants: Tucson Electric Power Company.
Description: TEP Order No. 784 Correction Filing 2 to be effective 1/27/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5047.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–1639–002.
Applicants: ISO New England Inc.
Description: Demand Curve Compliance Filing to be effective N/A.
Filed Date: 7/11/14.
Accession Number: 20140711–5027.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2400–000.
Applicants: Western Massachusetts Electric Company, ISO New England Inc.
Description: Berkshire Wind Power Cooperative Corp SGIA to be effective 6/23/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5073.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2401–000.
Applicants: Kansas City Power & Light Company.
Description: Kansas City Power & Light Company submits tariff filing per 35.13(a)(2)(iii: KCP&L Rate Schedule 139 Filing to be effective 12/31/9998.
Filed Date: 7/11/14.
Accession Number: 20140711–5075.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2402–000.
Applicants: PJM Interconnection, L.L.C.
Description: Queue Position Y3–087, Original Service Agreement No. 3878 to be effective 6/11/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5088.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2403–000.
Applicants: PacifiCorp.
Description: OATT Revisions to Part V Small Gen IC Agmts & Procedures (Order 792) to be effective 7/11/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5113.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2404–000.
Applicants: New York State Electric & Gas Corporation.
Description: Rate Schedule FERC No 193 to be effective 8/1/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5128.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2405–000.
Applicants: New York State Electric & Gas Corporation.
Description: Rate Schedule FERC No 194 to be effective 8/1/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5129.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2406–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: TO 205 filing between NiMo and WM Renewables Energy to be effective 6/2/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5130.
Comments Due: 5 p.m. ET 8/1/14.
Docket Numbers: ER14–2407–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): Winter 2014–15 Reliability Program (Part 1 of 2) to be effective 9/9/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5134.
Comments Due: 5 p.m. ET 8/1/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 11, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–16983 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF14–5–001]

United States Department of Energy, Bonneville Power Administration; Notice of Filing

Take notice that on July 9, 2014, the Bonneville Power Administration resubmitted its OS–14 Rate Schedule, to be effective 12/31/9998.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on August 8, 2014.

Dated: July 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17043 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Moon Lake Electric Association, Inc.; Project No. 190–104]

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 190–104.

c. *Date Filed:* May 30, 2014.

d. *Submitted By:* Moon Lake Electric Association, Inc.

e. *Name of Project:* Uintah Hydroelectric Project.

f. *Location:* On Uinta River in Duchesne County, Utah. The project is located on federal lands of Ashley National Forest and tribal lands of the Uintah and Ouray Native American Reservation.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* M. Jared Griffiths, Engineering Manager, Moon Lake Electric Association, Inc., P.O. Box 278, 800 West U.S. Highway 40, Roosevelt, Utah 84066–0278; (435) 722–5456; *jgriffiths@mleainc.com.*

i. *FERC Contact:* Jennifer Adams at (202) 502–8087; or email at *jennifer.adams@ferc.gov.*

j. Moon Lake Electric Association, Inc. (Moon Lake Electric) filed its request to use the Traditional Licensing Process on May 30, 2014. Moon Lake Electric provided public notice of its request on June 5, 2013. In a letter dated July 15, 2014, the Director of the Division of Hydropower Licensing approved Moon Lake Electric's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the California State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Moon Lake Electric as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Moon Lake Electric filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: July 15, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17064 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at Southwest Power Pool Regional Entity Trustee, Regional State Committee, Members' and Board of Directors Meetings

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. (SPP) Regional Entity Trustee (RE), Regional State Committee (RSC), SPP Members Committee and Board of Directors, as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

All meetings will be held at the Embassy Suites Omaha-Downtown, 555 South 10th Street, Omaha, NE. The hotel's phone number is (402) 346–9000.

SPP RE

July 28, 2014 (8:00 a.m.–12:00 p.m.)

SPP RSC

July 28, 2014 (1:00 p.m.–5:00 p.m.)
SPP Members/Board of Directors
July 29, 2014 (8:00 a.m.–3:00 p.m.)

The discussions may address matters at issue in the following proceedings:

Docket No. EL05–19, *Southwestern Public Service Company*
Docket No. ER05–168, *Southwestern Public Service Company*
Docket No. ER06–274, *Southwestern Public Service Company*
Docket No. ER06–451, *Southwest Power Pool, Inc.*
Docket No. ER09–35, *Tallgrass Transmission, LLC*
Docket No. ER09–36, *Prairie Wind Transmission, LLC*
Docket No. ER09–548, *ITC Great Plains, LLC*
Docket No. EL11–34, *Midcontinent Independent System Operator, Inc.*
Docket No. ER11–1844, *Midcontinent Independent System Operator, Inc.*
Docket No. ER11–4105, *Southwest Power Pool, Inc.*
Docket No. EL12–28, *Xcel Energy Services Inc., et al.*
Docket No. EL12–59, *Golden Spread Electric Cooperative, Inc.*
Docket No. EL12–60, *Southwest Power Pool, Inc., et al.*
Docket No. ER12–480, *Midcontinent Independent System Operator, Inc.*
Docket No. ER12–959, *Southwest Power Pool, Inc.*
Docket No. ER12–1071, *Entergy Arkansas, Inc.*
Docket No. ER12–1179, *Southwest Power Pool, Inc.*
Docket No. ER12–1586, *Southwest Power Pool, Inc.*
Docket No. ER12–2366, *Southwest Power Pool, Inc.*
Docket No. ER13–366, *Southwest Power Pool, Inc.*
Docket No. ER13–367, *Southwest Power Pool, Inc.*
Docket No. ER13–1173, *Southwest Power Pool, Inc.*
Docket No. ER13–1748, *Southwest Power Pool, Inc.*
Docket No. ER13–1864, *Southwest Power Pool, Inc.*
Docket No. ER13–1872, *Southwest Power Pool, Inc.*
Docket No. ER13–2031, *Southwest Power Pool, Inc.*
Docket No. EL14–21, *Southwest Power Pool, Inc.*
Docket No. EL14–30, *Midcontinent Independent System Operator, Inc.*
Docket No. EL14–49, *Southwest Power Pool, Inc.*
Docket No. EL14–57, *City of Hastings, NE and City of Grand Island, NE v. Southwest Power Pool, Inc.*
Docket No. ER14–781, *Southwest Power Pool, Inc.*
Docket No. ER14–866, *Southwest Power Pool, Inc.*
Docket No. ER14–1174, *Southwest Power Pool, Inc.*
Docket No. ER14–1406, *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–1407, *Southwest Power Pool, Inc.*
Docket No. ER14–1653, *Southwest Power Pool, Inc.*
Docket No. ER14–1713, *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–2009, *Southwest Power Pool, Inc.*
Docket No. ER14–2022, *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–2059, *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–2062, *Southwest Power Pool, Inc.*
Docket No. ER14–2065, *Southwest Power Pool, Inc.*
Docket No. ER14–2081, *Southwest Power Pool, Inc*
Docket No. ER14–2107, *Southwest Power Pool, Inc.*
Docket No. ER14–2162, *Southwest Power Pool, Inc.*
Docket No. ER14–2184, *Southwest Power Pool, Inc.*
Docket No. ER14–2217, *Southwest Power Pool, Inc.*
Docket No. ER14–2219, *Southwest Power Pool, Inc.*
Docket No. ER14–2303, *Southwest Power Pool, Inc.*
Docket No. ER14–2363, *Southwestern Public Service Company*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov*.

Dated: July 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17047 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at Southwest Power Pool Strategic Planning Committee Meeting

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. (SPP) Strategic Planning Committee (SPC), as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

SPP SPC July 17, 2014 (8:00 a.m.–3:00 p.m.) Embassy Suites Omaha-Downtown, 555 South 10th Street, Omaha, NE. The hotel's phone number is (402) 346–9000.

The discussions may address matters at issue in the following proceedings:

Docket No. ER13–366, *Southwest Power Pool, Inc.*
Docket No. ER13–367, *Southwest Power Pool, Inc.*
Docket No. ER12–1586, *Southwest Power Pool, Inc., et al.*

These meetings are open to the public.

For more information, contact Jay Sher, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8921 or *jay.sher@ferc.gov*.

Dated: July 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17048 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12649–000]

East Bay Municipal Utility District; Notice of Effectiveness of Surrender

On May 24, 2006, the Commission issued an Order Granting Exemption from Licensing (Conduit) [1] to the East Bay Municipal Utility District (District) for the Briones Energy Recovery Project, FERC No. 12649. The unconstructed project would have been located in the existing pipeline which supplies the Orinda Water Treatment Plant in Contra Costa County, California.

On May 30, 2014, the District filed an application with the Commission to surrender the exemption. The District has decided not to move forward with construction of the project, citing insufficient economic returns and cheaper alternatives in reducing greenhouse gas emissions.

Accordingly, the Commission accepts the District's surrender of its exemption from licensing, effective 30 days from the date of this notice, at the close of business on Monday, August 11, 2014. No license, exemption, or preliminary permit applications for the project site may be filed until Tuesday, August 12, 2014.

Dated: July 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17045 Filed 7–18–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 115 FERC ¶ 62,212.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OW–2014–0505; FRL–9913–96–Region–10]

Proposed Determination to Restrict the Use of an Area as a Disposal Site; Pebble Deposit Area, Southwest Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and public hearing.

SUMMARY: Pursuant to section 404(c) of the Clean Water Act (CWA), the Environmental Protection Agency (EPA) Region 10 is requesting public comments on its proposed determination to restrict the use of certain waters in the South Fork Koktuli River (SFK), North Fork Koktuli River (NFK), and Upper Talarik Creek (UTC) watersheds in southwest Alaska as disposal sites for dredged or fill material associated with mining the Pebble deposit, a copper-, gold-, and molybdenum-bearing ore body. EPA Region 10 is also announcing a series of public hearings on this section 404(c) proposed determination.

DATES: Submit comments on the proposed determination on or before September 19, 2014. See PUBLIC HEARING section below for public hearing dates and related information.

ADDRESSES: *I. How to Obtain a Copy of the Proposed Determination:* The proposed determination is available primarily via the Internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.* Paper copies are available upon request from either of the following locations:

- EPA Alaska Operations Office, 222 W 7th Avenue, Room 537, Anchorage, AK 99513. The telephone number for this office is (907) 271–5083.
- EPA Region 10, Public Environmental Resource Center, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. The telephone number for this office is (800) 424–4372 or (206) 553–1200.

If you are requesting a paper copy, please provide your name, your mailing address, and the document title, "Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act; Pebble Deposit Area, Southwest Alaska."

II. How to Submit Comments to the Docket at www.regulations.gov: Submit your comments, identified by Docket ID No. EPA–R10–OW–2014–0505, by one of the following methods:

- *Federal eRulemaking Portal (recommended method of comment submission):* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Email:* Send email to *ow-docket@epa.gov.* Include the docket number EPA–R10–OW–2014–0505 in the subject line of the message.
- *Mail:* Send your original comments and three copies to: Water Docket, Environmental Protection Agency, Mail Code 2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attention: Docket ID No. EPA–R10–OW–2014–0505.
- *Hand Delivery/Courier:* Deliver your comments to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460, Attention: Docket ID No. EPA–R10–OW–2014–0505. Such deliveries are accepted only during the Docket's normal hours of operation, 8:30 a.m. to 4:30 p.m. ET, Monday through Friday (excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The telephone number for the Water Docket is (202) 566–2426.
- Submit at Public Hearing: see PUBLIC HEARINGS section below.

Instructions: EPA's policy is that all comments received will be included in the public docket without change and will be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected information through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be captured automatically and included as part of the comment that is placed in the public docket and made publically available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA might not be able to consider your comment. Avoid the use of special characters and any form of encryption, and ensure that electronic files are free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Some information, however, is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Water Docket, EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. ET, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Public Hearings: In accordance with EPA regulations at 40 CFR 231.4, the Regional Administrator determined that public hearings on this section 404(c) proposed determination are in the public interest. The hearing dates and locations are as follows:

August 12, 2014—2:00 p.m., Egan Center, Anchorage, Alaska
August 13, 2014—5:00 p.m., Nondalton, Alaska
August 13, 2014—5:00 p.m., New Stuyahok, Alaska
August 14, 2014—5:00 p.m., Dillingham, Alaska
August 14, 2014—5:00 p.m., Kokhanok, Alaska
August 15, 2014—12:00 p.m., Igiugig, Alaska
August 15, 2014—12:00 p.m., Iliamna, Alaska

Additional hearing details and any changes to the schedule are available at *www.epa.gov/bristolbay.* The purpose of the public hearings is to obtain public testimony and comment on EPA Region 10's section 404(c) proposed determination regarding mining the Pebble deposit. The Regional Administrator will designate the official who will preside at the public hearing (the Presiding Officer). Any person may appear at the hearing and submit oral and/or written statements or data and may be represented by counsel or other authorized representatives. If you would like to submit written comments you may do so at the public hearings or by

one of the methods described in the section of this public notice entitled: *How to Submit Comments to the Docket at www.regulations.gov.*

Members of the public can sign up to make a comment at the venue on the day of the meeting. The following information will be requested for each commenter: First name, last name, organization and title (if applicable), city, state, email address, and phone number. Tribal elders and elected officials will be invited to comment first. The facilitator will then use a random number system to select individuals who signed up to determine speaking order. Audio-visual equipment will not be provided.

To maximize the number of individuals who are able to speak at the hearing, oral statements may be limited to two minutes per person. There will be no cross examination of any hearing participant, although the Presiding Officer may make appropriate inquiries of any such participant. The hearing will remain open, within reason, until everyone who desires to speak has the opportunity.

EPA Region 10 will not respond to questions/comments during the hearing. EPA Region 10 will consider the oral and written statements received at the public hearings and other written comments submitted pursuant to the instructions set forth in the section of this public notice entitled: How to Submit Comments to the Docket at *www.regulations.gov.* Any person may present written statements for the hearing file, including rebuttals to other commenter statements, prior to the time the hearing file is closed to public submissions.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Water Docket; telephone: (202) 566–2426 or email: *ow-docket@epa.gov.* For technical information concerning the proposed determination, contact Judy Smith; telephone: (503) 326–6994 or email: *r10bristolbay@epa.gov.* For more information about EPA's efforts in Bristol Bay, copies of the section 404(c) proposed determination, or copies of the Bristol Bay Assessment, see *http://www.epa.gov/bristolbay.*

SUPPLEMENTARY INFORMATION:

I. Information About the Proposed Determination

The U.S. Environmental Protection Agency (EPA) Region 10 is requesting public comment on a proposed determination to restrict the use of certain waters in the Bristol Bay watershed for disposal of dredged or fill material associated with mining the Pebble deposit, a large ore body in southwest Alaska. EPA Region 10 is taking this step because of the high ecological and economic value of the Bristol Bay watershed and the assessed unacceptable environmental effects that would result from such mining. This proposed determination relies on clear EPA authorities under the Clean Water Act (CWA), and is based on peer-reviewed scientific and technical information. Its scope is geographically narrow and it does not affect other deposits or mine claim holders outside of those affiliated with the Pebble deposit. EPA Region 10 is taking this step pursuant to section 404(c) of the CWA and its implementing regulations at 40 CFR part 231.

Alaska's Bristol Bay watershed is an area of unparalleled ecological value, boasting salmon diversity and productivity unrivaled anywhere in North America. As a result, the region is a globally significant resource with outstanding value. The Bristol Bay watershed provides intact, connected habitats—from headwaters to ocean—that support abundant, genetically diverse wild Pacific salmon populations. These salmon populations, in turn, maintain the productivity of the entire ecosystem, including numerous other fish and wildlife species.

The Bristol Bay watershed's streams, wetlands, and other aquatic resources support world-class, economically important commercial and sport fisheries for salmon and other fishes, as well as a more than 4,000-year-old subsistence-based way of life for Alaska Natives. Each year Bristol Bay supports the world's largest runs of sockeye salmon, producing approximately half of the world's sockeye salmon. These sockeye salmon represent the most abundant and diverse populations of this species remaining in the United States. Bristol Bay's Chinook salmon runs are frequently at or near the world's largest, and the region also supports significant coho, chum, and pink salmon populations. Because no hatchery fish are raised or released in the watershed, Bristol Bay's salmon populations are entirely wild. Bristol Bay is remarkable as one of the last places on Earth with such bountiful and sustainable harvests of wild salmon. One of the main factors leading to the success of this fishery is the fact that its aquatic habitats are untouched and pristine, unlike the waters that support many other fisheries.

Nearly 70% of the sockeye and large numbers of the coho, Chinook, pink, and chum salmon are harvested in commercial, subsistence, and recreational fisheries before they can return to their natal lakes and streams to spawn. Thus, these salmon resources have significant economic, nutritional, cultural, and recreational value, both within and beyond the Bristol Bay region. The Bristol Bay watershed's ecological resources generated nearly $480 million in direct economic expenditures and sales and provided employment for over 14,000 full- and part-time workers in 2009. The Bristol Bay commercial salmon fishery generates the largest component of this economic activity, with an estimated value of $300 million (sales from fishers to processors) and employment for over 11,000 full- and part-time workers (USEPA 2014: Chapter 5).

In February 2011, Northern Dynasty Minerals Ltd. (NDM) and the Pebble Limited Partnership (PLP) formally submitted information to the U.S. Securities and Exchange Commission (SEC) that put forth plans for the development of a large-scale mine at the headwaters of this pristine ecosystem. Their proposal outlines several stages of mine development, the smallest being a 2.0-billion-ton mine [1] and the largest being a 6.5-billion-ton mine [2] (Ghaffari *et al.* 2011, SEC 2011), both of which are larger than 90% of the known ore deposits of this type in the world (USEPA 2014: Chapter 4).

The Pebble deposit is a large, low-grade, porphyry copper deposit (containing copper-, gold-, and molybdenum-bearing minerals) that underlies portions of the South Fork Koktuli River (SFK), North Fork Koktuli River (NFK), and Upper Talarik Creek (UTC) watersheds. Based on information provided by NDM and PLP to the SEC (Ghaffari et al. 2011, SEC 2011), mining the Pebble deposit is likely to involve excavation of the largest open pit ever constructed in North America, covering up to 6.9 square miles (17.8 km^2) and reaching a depth of as much as 0.77 mile (1.24 km) (USEPA 2014: Chapter 6); for reference, the maximum depth of the Grand Canyon is approximately 1 mile. Disposal of resulting waste material would require construction of up to three mine tailings impoundments covering an additional 18.8 square miles (48.6 km^2) and waste rock piles covering up to 8.7 square miles (22.6 km^2) (USEPA 2014: Chapter 6) in an area that

[1] Ghaffari et al. (2011) call the 2.0 stage mine the "Investment Decision Case," which describes an initial 25-year open pit mine life upon which a decision to initiate permitting, construction, and operations may be based.

[2] Ghaffari et al. (2011) call the 6.5 stage mine the "Resource Case," which is based on 78 years of open pit production and seeks to assess the long-term value of the project in current dollars.

contains highly productive streams and wetlands. The volume of mine tailings, and waste rock produced from the smallest mine proposed by NDM/PLP to the SEC (Ghaffari et al. 2011, SEC 2011) would be enough to fill a professional football stadium more than 800 times, whereas the largest mine would do so more than 3,900 times.

In total, these three mine components (mine pit, tailings impoundments, and waste rock piles) would cover an area larger than Manhattan. Mine construction and operation would also require the construction of support facilities, including a major transportation corridor, pipelines, a power-generating station, wastewater treatment plants, housing and support services for workers, administrative offices, and other infrastructure. Such facilities would greatly expand the "footprint" of the mine and affect additional aquatic resources beyond the scope of this proposed determination. Although NDM/PLP's preliminary plans (Ghaffari et al. 2011, SEC 2011) could change, any mining of this deposit would, by necessity, require similar mine components, support facilities, and operational features.

Given the extent of streams, wetlands, lakes, and ponds both overlying the Pebble deposit and within adjacent watersheds, excavation of a massive mine pit and construction of large tailings impoundments and waste rock piles would result in discharge of dredged or fill material into these waters. This discharge would result in complete loss of fish habitat due to elimination, fragmentation, and dewatering of streams, wetlands, and other aquatic resources. In addition, water withdrawal and capture, storage, treatment, and release of wastewater associated with the mine would significantly impair the fish habitat functions of other streams, wetlands, and aquatic resources. All of these losses would be irreversible.

Based upon information known to EPA about the proposed mine at the Pebble deposit and its potential impact on fishery resources, and as a result of multiple inquires, concerns, and petitions to EPA to use its authorities to protect these fishery resources, EPA decided to conduct an ecological risk assessment before considering any additional steps. After three years of study, two rounds of public comment, and independent, external peer review, EPA released its *Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*[3] (the Bristol Bay Assessment) (USEPA 2014) in January 2014. The Bristol Bay Assessment established that the extraction, storage, treatment, and transportation activities associated with building, operating and maintaining one of the largest mines ever built would pose significant risks to the unparalleled ecosystem that produces one of the greatest wild salmon fisheries left in the world. In simple terms, the infrastructure necessary to mine the Pebble deposit jeopardizes the long-term health and sustainability of the Bristol Bay ecosystem.

The Bristol Bay Assessment characterizes the significant ecological resources of the region and describes potential impacts to salmon and other fish from large-scale porphyry copper mining at the Pebble deposit. The Bristol Bay Assessment evaluated these impacts using three mine scenarios that represent different stages of mining at the Pebble deposit, based on the amount of ore processed:

- Pebble 0.25 stage mine (approximately 0.25 billion tons of ore over 20 years);
- Pebble 2.0 stage mine (approximately 2.0 billion tons of ore over 25 years); and
- Pebble 6.5 stage mine (approximately 6.5 billion tons of ore over 78 years).

Ghaffari et al. (2011) indicate that the total mineral resources at the Pebble deposit are now believed to be approximately 12 billion tons of ore. Thus, it is expected that development of a mine at the Pebble deposit would ultimately be much larger than the 0.25 stage mine and could exceed the 6.5 stage mine. NDM has stated to the public that "the Pebble deposit supports open pit mining utilizing conventional drill, blast and truck-haul methods, with an initial mine life of 25 years and potential for mine extensions to 78 years and beyond" (NDM 2011). This statement, along with others to investors, indicate that NDM is actively considering a mine size between 2.0 and 6.5 billion tons.

Nevertheless, EPA also assessed the impacts of a much smaller mine footprint in the Bristol Bay Assessment. The 0.25 stage mine is based on the worldwide median size porphyry copper deposit (Singer *et al.* 2008). Although this smaller size is dwarfed by the mine sizes that NDM/PLP put forward to the SEC (Ghaffari *et al.* 2011, SEC 2011), its impacts would still be significant.

In total, the Bristol Bay Assessment estimates that habitat losses associated with the 0.25 stage mine would include nearly 24 miles (38 km) of streams, representing approximately 5 miles (8 km) of streams with documented anadromous fish occurrence and 19 miles (30 km) of tributaries of those streams (USEPA 2014: Chapter 7). Total habitat losses would also include more than 1,200 acres (4.9 km^2) of wetlands, lakes, and ponds, of which approximately 1,100 acres (4.4 km^2) are contiguous with either streams with documented anadromous fish occurrence or tributaries of those streams. For the largest mine that NDM/PLP put forward to the SEC (the 6.5 stage mine), stream losses would expand to 94 miles (151 km), representing over 22 miles (36 km) of streams with documented anadromous fish occurrence and 72 miles (115 km) of tributaries of those streams (USEPA 2014: Chapter 7). Total habitat losses for the 6.5 stage mine would also include more than 4,900 acres (19.8 km^2) of wetlands, lakes, and ponds, of which approximately 4,100 acres (16.6 km^2) are contiguous with either streams with documented anadromous fish occurrence or tributaries of those streams.

To put these numbers in perspective, stream losses for just the 0.25 stage mine would equal a length of more than 350 football fields and the 0.25 stage mine wetland losses would equal an area of more than 900 football fields. Although Alaska has many streams and wetlands that support salmon, individual streams, stream reaches, wetlands, lakes, and ponds play a critical role in protecting the genetic diversity of Bristol Bay's salmon populations. Individual waters can support local, unique populations (Quinn et al. 2001, Olsen et al. 2003, Ramstad et al. 2010, Quinn et al. 2012). Thus, losing these populations would erode the genetic diversity that is crucial to the stability of the overall Bristol Bay salmon fisheries (Hilborn et al. 2003, Schindler et al. 2010, USEPA 2014: Appendix A).

These stream, wetland, and other aquatic resource losses also would reverberate downstream, depriving downstream fish habitats of nutrients, groundwater inputs, and other subsidies from lost upstream aquatic resources. In addition, water withdrawal, capture, storage, treatment, and release at even the 0.25 stage mine would result in streamflow alterations in excess of 20% in more than 9 miles (nearly 15 km) of streams with documented anadromous fish occurrence. These streamflow

[3] For more information about EPA's efforts in Bristol Bay or copies of the Bristol Bay Assessment, see *http://www.epa.gov/bristolbay.*

changes would result in major changes in ecosystem structure and function and would reduce both the extent and quality of fish habitat downstream of the mine to a significant degree. The impacts from the larger mine sizes NDM/PLP has forecasted would be significantly higher. The 2.0 and 6.5 stage mines would result in streamflow alterations in excess of 20% in more than 17 miles (27 km) and 33 miles (53 km), respectively, of streams with documented anadromous fish occurrence (USEPA 2014: Chapter 7).

The CWA is a law essential for EPA's mission, which is to protect and restore the environment and public health for current and future generations. Section 404(c) of the CWA authorizes EPA to prohibit, restrict, or deny the use of any defined area in waters of the United States for specification as a disposal site whenever it determines, after notice and opportunity for public hearing, that the discharge of dredged or fill material into the area will have an unacceptable adverse effect on fishery areas (including spawning and breeding areas). EPA has used its section 404(c) authority judiciously and sparingly, having completed only 13 section 404(c) actions in the 42-year history of the CWA.

As a first step in the regulatory process pursuant to section 404(c), EPA Region 10 coordinated with NDM/PLP and the State of Alaska to provide them an opportunity to submit information that demonstrated either that no unacceptable adverse effects would result from discharges associated with mining the Pebble deposit or that actions could be taken to prevent unacceptable adverse effects on fishery areas. EPA Region 10 met with both NDM/PLP and the State and extended the time period for both to submit this information.

Both NDM/PLP and the State of Alaska submitted information that raised scientific and technical issues, most of which had been previously raised in public comments on the Bristol Bay Assessment. However, this information did not demonstrate to the satisfaction of EPA Region 10 that no unacceptable adverse effects on fishery areas will occur should the disposal of dredged or fill material associated with mining of the Pebble deposit proceed.

Therefore, EPA Region 10 has decided to take the next step in the section 404(c) review process, publication of this proposed determination. As part of a section 404(c) proposed determination, the EPA Regional Administrator must identify a defined area, known as the disposal site, where its prohibitions or restrictions would apply. In this case, the proposed geographic boundaries of the potential disposal site are the waters within the mine claims held by NDM subsidiaries, including PLP, that fall within the SFK, NFK, and UTC watersheds. EPA Region 10 focused on this area because it determined that it best represents the smallest geographical area where the discharge of dredged or fill material associated with mining the Pebble deposit is most likely to occur.

To protect important fishery areas in the SFK, NFK, and UTC watersheds from unacceptable adverse effects, EPA Region 10 recognizes that losses of streams, wetlands, lakes, and ponds and alterations of streamflow each provide a basis to issue this section 404(c) proposed determination.

Given the proposals made by NDM/PLP to develop 2.0- and 6.5-billion-ton mines at the Pebble deposit (Ghaffari et al. 2011, SEC 2011) and EPA's evaluation of the 0.25-billion-ton mine (USEPA 2014), the Regional Administrator has reason to believe that mining of the Pebble deposit at any of these sizes, even the smallest, could result in significant and unacceptable adverse effects on ecologically important streams, wetlands, lakes, and ponds and the fishery areas they support.

Accordingly, the Regional Administrator proposes that EPA restrict the discharge of dredged or fill material related to mining the Pebble deposit into waters of the United States within the potential disposal site that would, individually or collectively, result in any of the following.

1. Loss of Streams

a. The loss of 5 or more linear miles of streams with documented anadromous fish [4] occurrence; *or*

b. The loss of 19 or more linear miles of streams where anadromous fish are not currently documented, but that are tributaries of streams with documented anadromous fish occurrence; *or*

2. Loss of Wetlands, Lakes, and Ponds

The loss of 1,100 or more acres of wetlands, lakes, and ponds contiguous with either streams with documented anadromous fish occurrence or tributaries of those streams; *or*

3. Streamflow Alterations

Streamflow alterations greater than 20% of daily flow in 9 or more linear miles of streams with documented anadromous fish occurrence.

These restrictions derive from the estimated impacts resulting from the discharge of dredged or fill material associated with construction and routine operation of a 0.25 stage mine at the Pebble deposit, as evaluated in the Bristol Bay Assessment (USEPA 2014).

EPA Region 10's evaluation of relevant portions of the section 404(b)(1) Guidelines (40 CFR part 230) further demonstrates that discharge of dredged or fill material resulting in the level of adverse effects identified in the proposed restrictions could result in unacceptable adverse effects on fishery areas. Degradation of these aquatic resources would be even more pronounced given extensive cumulative impacts at successive stages of mine expansion (i.e., 2.0 and 6.5 stage mines or larger) at the Pebble deposit, including elevated instream copper concentrations sufficient to cause direct toxicity to fish. Toxic effects on fish would include fish kills; reduced survival, growth, and/or reproduction; and reduced sensory acuity, which is important to salmon for locating natal streams, finding food, and avoiding predators.

EPA Region 10 recognizes it has underestimated potential adverse effects to resources within the SFK, NFK, and UTC watersheds from mining the Pebble deposit for several reasons. This evaluation does not include footprint impacts associated with all of the components necessary to construct and operate such a mine (e.g., a major transportation corridor, pipelines, a power-generating station, wastewater treatment plants, housing and support services for workers, administrative offices, and other infrastructure). It also does not rely upon impacts resulting from potential accidents and failures as a basis for its findings. There is a high likelihood that wastewater treatment plant failures would occur, given the long management horizon expected for the mine (i.e., decades). There is also real uncertainty as to whether severe accidents or failures, such as a complete wastewater treatment plant failure or a tailings dam failure, could be adequately prevented over a management horizon of centuries, or even in perpetuity, particularly in such a geographically remote area subject to climate extremes. If such events were to occur, they would have profound ecological ramifications. By not relying on potential accidents and failures, EPA

[4] Anadromous fish are those that hatch in freshwater habitats, migrate to sea for a period of relatively rapid growth, and then return to freshwater habitats to spawn. For the purposes of these restrictions, anadromous fish refers to coho or silver (*Oncorhynchus kisutch*), Chinook or king (*O. tshawytscha*), sockeye or red (*O. nerka*), chum or dog (*O. keta*), and pink or humpback (*O. gorbuscha*) salmon.

Region 10 has employed a conservative analysis of adverse effects.

Known compensatory mitigation techniques are unlikely to offset impacts of the nature and magnitude described in the proposed restrictions. Compensatory mitigation is the concept of improving stream or wetland health in other parts of the watershed to compensate for stream or wetland destruction or degradation in a separate area. Compensatory mitigation efforts typically involve restoration and enhancement of waters that have potential for improvement in ecological services. However, the waters of the Bristol Bay watershed are already among the most productive in the world. EPA Region 10 sees little likelihood that human activity could improve upon the high quality natural environment in the Bristol Bay watershed that nature has created and has thus far been preserved. Compensation methods proposed by PLP, including placement of in-stream structures, stream fertilization, and construction of spawning channels, have typically had only variable, local, or temporary effects, were designed for use in degraded watersheds, or resulted in adverse, unintended consequences (USEPA 2014: Appendix J).

Mine alternatives with lower environmental impacts at the Pebble deposit are not evaluated in either the Bristol Bay Assessment or this section 404(c) proposed determination. If these proposed restrictions are finalized, proposals to mine the Pebble deposit that have impacts below each of these restrictions would proceed to the section 404 permitting process with the U.S. Army Corps of Engineers. Any such proposals would have to meet the statutory and regulatory requirements for permitting under section 404.

After evaluating available information, EPA Region 10 has reason to believe that unacceptable adverse effects on fishery areas (including spawning and breeding areas) could result from the discharge of dredge or fill material associated with mining the Pebble deposit. Further, it has not been demonstrated to the satisfaction of EPA Region 10 that no unacceptable adverse effect(s) will occur.

EPA Region 10 is soliciting public comment on all issues discussed in this proposed determination, including likely adverse impacts to fishery resources, mitigation measures to potentially address these impacts, and other options to restrict or prohibit potentially harmful discharges of dredged or fill material associated with mining the Pebble deposit. All comments will be fully considered as EPA Region 10 decides whether to withdraw the proposed determination or forward to EPA Headquarters a recommended determination to restrict the use of certain waters in the SFK, NFK, and UTC watersheds in southwest Alaska as disposal sites for the discharge of dredged or fill material associated with mining the Pebble deposit. Should EPA Region 10 make a recommended determination, EPA Headquarters will then determine, based on the recommended determination, public comments received on the proposed determination, and all other available, relevant information, whether to issue a final determination under section 404(c).

II. Solicitation of Comments on the Proposed Determination

Please see the section above entitled **ADDRESSES** for information about how to obtain a copy of the proposed determination and how to submit comments on the proposed determination. EPA Region 10 is soliciting comments on all issues discussed in the proposed determination. In particular, we request:

(1) Comments regarding whether the proposed determination should become the recommended determination and ultimately the final determination, and corrective action that could be taken to reduce the adverse impact of the discharges.

(2) Additional information on the likely adverse impacts on fish and other ecological resources of the receiving waters that would be directly or indirectly affected by mining the Pebble deposit (including the SFK, NFK, and UTC and downstream reaches of the Nushagak and Kvichak Rivers).

(3) Additional information on the water quality, flora, fauna, and hydrology of the waters identified in No. 2 above, and information on the fish species that would be affected by aquatic ecosystem changes if the discharges from the project occur.

(4) Additional information about wildlife species that would be affected if the discharges from the project occur.

(5) Additional information about recreational uses of the project area and how they would be impacted if the discharges from the project occur.

(6) Additional information about drinking water (including municipal water supplies and private sources of drinking water such as streams and/or wells) and how they would be impacted if the discharges from the project occur.

(7) Additional information on the potential for mitigation to be successful in reducing the impacts of the project.

(8) Comments regarding the approach used to define the potential disposal site, including how EPA Region 10 weighed the factors discussed in section 2.2.3 and whether there are other factors or approaches EPA Region 10 should consider for defining the potential disposal site.

(9) Whether the discharge of dredged or fill material associated with the project should be completely prohibited, restricted as proposed, restricted in another manner, or not restricted at all at this time. In particular, EPA Region 10 is also seeking comment on whether environmental effects associated with other mine stages or scenarios (e.g. environmental effects from mining approximately 2.0 billion tons of ore over 25 years) could provide a basis for alternative or additional restrictions.

(10) Comment on the definitions provided in Section 5.

(11) Comment on whether and how EPA Region 10's action under section 404(c) should consider discharge of dredged or fill materials beyond those associated with the mine pit, tailings dam, and waste rock piles, to include such discharges associated with the construction of other mine infrastructure (e.g., wastewater treatment facilities, transportation corridors, etc.).

All relevant data, studies, or informal observations are appropriate. The record will remain open for comments until September 19, 2014. All comments will be fully considered as EPA Region 10 decides whether to withdraw the proposed determination or forward to EPA Headquarters a recommended determination to restrict the use of certain waters in the SFK, NFK, and UTC watersheds in southwest Alaska as disposal sites for the discharge of dredged or fill material associated with mining the Pebble deposit.

Dennis J. McLerran,

Regional Administrator, EPA Region 10.

[FR Doc. 2014–16920 Filed 7–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0011; FRL–9912–17]

Notice of Receipt of Pesticide Products; Registration Application To Register New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register new uses for pesticide products containing currently registered active ingredients pursuant to the provisions of section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This notice provides the public with an opportunity to comment on the applications.

DATES: Comments must be received on or before August 20, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the EPA Registration Number or File Symbol of interest as shown in the body of this document, 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.html.*

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: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*, Lois Rossi, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

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 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.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under the Agency's public participation process for registration actions, there will be an additional opportunity for an additional public comment period on the proposed decision. Please see the Agency's public participation Web site for additional information on this process (*http://iaspub.epa.gov/apex/pesticides/f?p=CHEMICALSEARCH:30:0*). EPA received the following application to register new uses for pesticide products containing currently registered active ingredients:

1. *EPA Registration Number:* 11678–1 and 66222–58, and 66222–257. *Docket ID Number:* EPA–HQ–OPP–2014–0315. *Applicant:* Makhteshim Agan of North America, Inc (MANA), 3120 Highwoods Blvd., Suite 100, Raleigh, NC and Makhteshim Chemical Works (MCE) c/o Makhteshim Agan of North America, Inc (MANA), 3120 Highwoods Blvd., Suite 100, Raleigh, NC. *Active ingredient:* Captan. *Product Type:* Fungicide. *Proposed Uses:* Ginseng. (RD)

2. *EPA Registration Number/EPA File Symbol:* 100–RLNA. *Docket ID Number:* EPA–HQ–OPP–2013–0701. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Difenoconazole, including its metabolites and degradates, and Azoxystrobin, and the Z-isomer of azoxystrobin. *Product Type:* Fungicide. *Proposed Uses:* to control diseases on ornamental plants and vegetable transplants grown in indoor production facilities. (RD)

3. *EPA Registration Number:* 73314–6. *Docket ID Number:* EPA–HQ–OPP–2014–0330. *Applicant:* Technology Sciences Group, Inc., 1150 18th St. NW., Suite 1000, Washington, DC 20036 (on behalf of Novozymes BioAg, Inc., 13100 W. Lisbon Rd., Suite 600, Brookfield, WI 53005). *Active Ingredient: Isaria fumosoroseus* strain FE 9901. *Product Type:* Insecticide. *Proposed Uses:* Outdoor, food, and residential uses. (BPPD)

4. *EPA Registration Number:* 73314–7. *Docket ID Number:* EPA–HQ–OPP–2014–0330. *Applicant:* Technology Sciences Group, Inc., 1150 18th St. NW., Suite 1000, Washington, DC 20036 (on behalf of Novozymes BioAg, Inc., 13100 W. Lisbon Rd., Suite 600, Brookfield, WI 53005). *Active Ingredient: Isaria fumosoroseus* strain FE 9901. *Product Type:* Insecticide. *Proposed Uses:* For manufacturing into end-use pesticide products to be used outdoors, in or on food, and in residential areas. (BPPD)

5. *EPA Registration Numbers:* 100–1131, 100–1140, and 100–1150 *Docket ID Number:* EPA–HQ–OPP–2014–0303. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Mesotrione. *Product Type:* Herbicide. *Proposed Uses:* Citrus Fruit (Orange), Pome Fruit (Apple), Stone Fruit (Nectarine, Peach, Plum) and Tree Nuts (Almond, Common Walnut, Pistachio). (RD)

6. *EPA Registration Number:* 59639–147. *Docket ID Number:* EPA–HQ–OPP–2014–0230. *Applicant:* Valent U.S.A. Corporation, 1600 Riviera Ave., Suite 200, Walnut Creek, CA 94596. *Active ingredient:* Metconazole measured as the sum of its *cis-* and *trans-* isomers. *Product type:* Fungicide. *Proposed Uses:* Dried shelled pea and bean (except soybean) subgroup 6C, Sunflower subgroup 20B, Rapeseed subgroup 20A, Stone fruit group 12–12; Tree nut group 14–12. (RD)

7. *EPA Registration Number:* 72078–1. *Docket ID Number:* EPA–HQ–OPP–2014–0230. *Applicant:* Kureha Corporation, 1600 Riviera Ave., Suite 200, Walnut Creek, CA 94596. *Active ingredient:* Metconazole measured as the sum of its *cis-* and *trans-* isomers. *Product type:* Fungicide. *Proposed Uses:* Dried shelled pea and bean (except soybean) subgroup 6C, Sunflower subgroup 20B, Rapeseed subgroup 20A, Stone fruit group 12–12; Tree nut group 14–12. (RD)

8. *EPA Registration Number(s):* 62719–442 and 62719–437. *Docket ID number:* EPA–HQ–OPP–2013–0476. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Rd, Indianapolis, IN, 46268–1054. *Active ingredient:* Methoxyfenozide. *Product type:* Insecticide. *Proposed Uses:* Pineapple. (RD)

9. *EPA Registration Numbers:* 241–245 and 241–418. *Docket ID Number:* EPA–HQ–OPP–2014–0397. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. *Active ingredient:* Pendimethalin calculated as the stoichiometric equivalent of pendimethalin. *Product Type:* Herbicide *Proposed Uses:* Milk, fat (cattle, goat, horse and sheep), liver (cattle, goat, horse, and sheep), meat (cattle, goat, horse, and sheep), and meat byproducts except liver (cattle, goat, horse, and sheep), forage and hay. (RD)

10. *EPA Registration Number:* 7969–188, 7969–190. *Docket ID Number:* EPA–HQ–OPP–2014–0346. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. *Active ingredient:* Prohexadione Calcium. *Product Type:* Fungicide. *Proposed Uses:* Strawberry and watercress. (RD)

11. *EPA Registration Numbers:* 7969–275 and 7969–278. *Docket ID Number:* EPA–HQ–OPP–2014–0339. *Applicant:* BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. *Active ingredient:* Saflufenacil, calculated as the stoichiometric equivalent of saflufenacil. *Product Type:* Herbicide. *Proposed Uses:* Alfalfa grown for forage and hay. (RD)

12. *EPA Registration Numbers:* 7969–56 and 7969–58. *Docket ID Number:* EPA–HQ–OPP–2014–0161. *Applicant:* BASF Corporation. P.O. Box 13528, Research Triangle Park, NC, 27709–3528. *Active ingredient:* Sethoxydim, and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide). *Product Type:* Herbicide. *Proposed Uses:* Conversion of existing uses to the following crop groups to include additional crops as listed under 40 CFR 180.41: Bulb Vegetable Group 3–07; Bushberry Subgroup 13–07B; Caneberry Subgroup 13–07A; Citrus Fruit Group 10–10; Cottonseed Subgroup 20C; Fruiting Vegetable Group 8–10 (excluding tomato); Low Growing Berry Subgroup 13–07H (excluding lowbush blueberry, highbush cranberry, lingonberry, and strawberry); Pome Fruit Group 11–10; Rapeseed Subgroup 20A (excluding flax seed); Small Fruit Vine Climbing Subgroup 13–07F (excluding fuzzy kiwifruit); and Sunflower Subgroup 20B (excluding safflower). (RD)

13. *EPA Registration Numbers:* 100–815 and 100–816. *Docket ID Number:* EPA–HQ–OPP–2014–0284. *Applicant:* Syngenta Crop Protection LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* S-metolachlor. *Product Type:* Herbicide. *Proposed Uses:* Lettuce (head and leaf); Low Growing Berry Subgroup 13–07G (excluding cranberry) with includes: bearberry, bilberry, blueberry (lowbush), cloudberry, lingonberry, muntries, partridgeberry, strawberry (annual and perennial), cultivars, varieties, and/or hybrids of these; Cucurbit Vegetable Group 9 which includes: chayote (fruit), Chinese wax gourd, citron melon, cucumber, gherkin, gourd (edible), momordica spp, muskmelon, pumpkin, summer squash, winter squash (including butternut squash, calabaza, hubbard squash, acorn squash, and spaghetti squash), and watermelon; Sunflower Subgroup 20B which includes: calendula, castor oil plant, Chinese tallowtree, euphorbia, evening primrose, jojoba, niger seed, rose hip, safflower, stokes aster, sunflower, tallowwood, tea oil plant, vernonia, cultivars, varieties, and/or hybrids of these.; and Fruiting Vegetable Group 8–10 which includes: African eggplant, bush tomato, bell pepper, cocona, currant tomato, eggplant, garden huckleberry, goji berry, groundcherry, martynia, naranjilla, pea eggplant, pepino, non-bell pepper, roselle, scarlet eggplant, sunberry, tomatillo, tomato, tree tomato, cultivars, varieties, and/or hybrids of these. (RD)

14. *EPA Registration Numbers:* 62719–37, 62719–53, 62719–87, 62719–552, and 62719–637. *Docket ID Number:* EPA–HQ–OPP–2014–0314. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054. *Active ingredients:* Triclopyr triethylamine salt and Triclopyr butoxyethyl ester. *Product Type:* Herbicide. *Proposed Uses:* Dairies and land grazed by lactating dairy animals. (RD)

15. *EPA Registration Numbers:* 100–727, 100–949, and 100–1241. *Docket ID Number:* EPA–HQ–OPP–2014–0340. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Trinexapac-ethyl. *Product Type:* Plant growth regulator. *Proposed Uses:* Rice and Rye. (RD)

16. *EPA Registration Numbers:* 100–1374 and 100–1381. *Docket ID Number:* EPA–HQ–OPP–2014–0354. *Applicant:* Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Sedaxane. *Product Type:* Fungicide. *Proposed Uses:* For seed treatment for cotton, undelinted seed; cotton, gin byproducts; and beet, sugar. (RD)

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 27, 2014.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2014–17130 Filed 7–18–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 14–97; DA 14–897]

Termination of Dormant Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission, via the Consumer and Governmental Affairs Bureau (CGB), seeks comment on whether certain docketed Commission proceedings should be terminated as dormant. The Commission's procedural rules, which were revised to streamline and improve the agency's docket management practices, delegate authority to the Chief, CGB to periodically review all open dockets and, in consultation with the responsible Bureaus or Offices, to identify those dockets that appear to be candidates for termination.

DATES: Comments are due on or before August 20, 2014, and reply comments are due on or before September 4, 2014.

ADDRESSES: Interested parties may submit comments, identified by [CG Docket No. 14–97], by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS) at *http://fjallfoss.fcc.gov/ecfs2/*. Filers should follow the instructions provided on the Web site for submitting comments. In completing the transmittal screen, ECFS filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CG Docket No. 14–97.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's

Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express mail and Priority mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gayle Radley Teicher, Consumer and Governmental Affairs Bureau at (202) 418–1515 or by email at *gayle.teicher@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice, *Consumer and Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant,* document DA 14–897, released on June 30, 2014 in CG Docket No. 14–97.

The full text of document DA 14–897 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Copies may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160, fax: (202) 488–5563, or Internet: *www.bcpiweb.com.* Document DA 14–897 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/document/cgb-seeks-comment-termination-certain-proceedings-dormant-0.* The spreadsheet associated with document DA 14–897 listing the proceedings proposed for termination for dormancy is available in Word or Portable Document Format at *http://www.fcc.gov/article/da-14-897a2.*

Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the respective dates indicated in the **DATES** section of this document.

Pursuant to 47 CFR 1.1200 *et seq.,* this matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Synopsis: On February 4, 2011, the Commission released document FCC 11–16, *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization, Report and Order,* 76 FR 24383, May 2, 2011, which revised portions of its Part 1—Practice and Procedure and Part 0—Organizational rules.

The revised rules, in part, delegate authority to the Chief, CGB to periodically review all open dockets and, in consultation with the responsible Bureaus or Offices, to identify those dockets that appear to be candidates for termination. These candidates include dockets in which no further action is required or contemplated, as well as those in which no pleadings or other documents have been filed for several years. However, the Commission specified that proceedings in which petitions addressing the merits are pending should not be terminated absent the parties' consent. The termination of a dormant proceeding also includes dismissal as moot of any pending petition, motion, or other request for relief that is procedural in nature or otherwise does not address the merits of the proceeding.

Prior to the termination of any particular proceeding, the Commission was directed to issue a Public Notice identifying the dockets under consideration for termination and affording interested parties an opportunity to comment. Thus, CGB has identified the dockets for possible termination in document DA 14–897. *http://www.fcc.gov/document/cgb-seeks-comment-termination-certain-proceedings-dormant-0.*

Federal Communications Commission.

Kris Monteith,

Acting Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2014–17028 Filed 7–18–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10382, Southshore Community Bank, Apollo Beach, FL

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Southshore Community Bank, Apollo Beach, Florida ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Southshore Community Bank on July 22, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership

will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 16, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–17030 Filed 7–18–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 2014.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Cross County Bancshares, Inc.,* Wynne, Arkansas; to merge with Forrest City Financial Corporation, and thereby indirectly acquire Forrest City Bank, N.A., both in Forrest City, Arkansas.

Board of Governors of the Federal Reserve System, July 16, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–17040 Filed 7–18–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 2014.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Old National Bancorp,* Evansville, Indiana; to acquire, through merger, 100 percent of the voting shares of LSB Financial Corp., and indirectly acquire Lafayette Savings Bank, Federal Savings Bank, both in Lafayette, Indiana, and thereby engage in operating a savings and loan association, pursuant to section 225.28(b)(4)(ii).

Board of Governors of the Federal Reserve System, July 16, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–17041 Filed 7–18–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH & HUMAN SERVICES

VizRisk Prize Competition Challenge

AGENCY: Office of Business Management and Transformation, HHS.

ACTION: Notice.

SUMMARY: VizRisk is the first-ever behavioral health data visualization challenge hosted by the US Department of Health and Human Services (HHS). Its goal is to foster increased utilization, innovation, and critical analyses of publically available but underutilized government health data to better inform personal and health policy decisions.

This 3 month challenge, July 28th to October, 28th 2014 will call on talented designers, coders, data scientists, public health experts, and others from around the country to analyze, organize, and visualize behavioral health risk data. We will be asking participants to use CDC's Behavioral Risk Factor Surveillance System data in combination with other publicly available government data sets to reveal key insights, trends, and relationships.

Submissions will be graphic, dynamic visualizations that combine three or more variables (e.g. showing the relationship between behavioral patterns, health risks, and medical costs). Participants are free to use any pre-existing, customized, or new tools to produce these visualizations.

All submissions will be evaluated; separate sets of prizes will be awarded for excellence in each of the criteria below. A total of up to 7 prizes and $15,000 will be offered.

- *Innovation*—evaluated for novel combination, integration, and application of data.
- *Relevance*—evaluated for meaningful health data relationships that are comparable across time, geographies, and populations.
- *Design*—evaluated for visually appealing, elegant, intuitive interface and visualizations.
- *Scientific Excellence*—evaluated for rigorously measured relationships that adhere to the principles of scientific inquiry.

The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358).

DATES:

- Submission period: 9 a.m. July 28th to 12 a.m. October, 28th 2014.
- Judging: October 28th–November 15th, 2014.
- Awards Announced: November 30th, 2014 on hhsvizrisk.org and via email.

FOR FURTHER INFORMATION CONTACT: Sandeep Patel, *Sandeep.patel@hhs.gov.*

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

These visualization tools and user-centered applications should be created to be used for two purposes: (1) Informing both the public and policymakers on current trends in health and (2) assisting in active decision-making processes, especially involving health risks in the context of behavior, environment, medical history, etc. The software visualizations should be customizable by the user; for example, users must be able to filter/retrieve detail regarding particular relationships between data. A potential application could also be that patients can enter their own health and/or claims information, such as demographic features or clinical attributes, for comparison with population statistics and trends to better inform decision-making.

We are particularly interested in visualizations using behavioral health data and its relationships to medical use, environment, nutrition, socioeconomic status, and cost. These visualizations can reveal not just the most common trends in behavior that lead to particular conditions and costs, but also ways to sidestep preventable health conditions through health behaviors. Detailed Behavioral Risk Factor and Surveillance System data, enhanced with Medical Provider Utilization and Payment data, reports of adverse drug events, National Health and Nutrition Examination Survey, 2010 Census data, Envirofacts data, and Healthcare Cost and Utilization Project data can enhance analysis of behavioral health risks on a multifaceted level. The combination of data from multiple sources, and quality measure data in particular, can be used to create tools providing deep insight into trends in population health.

Behavioral health is influenced by many factors, so participants are encouraged to explore a variety of publically-available and relevant datasets in addition to the seven listed above.

When developing the project, participants should consider the context of the user. Would the viewer/user be a patient seeking to learn more about his/her health, or a doctor seeking to find trends in behavioral health, or a policymaker seeking to use data to drive health policy. For visualizations, at least three "dimensions," or contexts of data should be included, one of which must incorporate the Behavioral Risk Factor and Surveillance System (BRFSS) data. For example, visualizations may include the BRFSS data, air toxicity data from EPA, and personal health data.

Participants will build out their visualizations to the most complete extent possible. If finalists choose to create live or static visualizations embeddable for use on the web, mobile, or print, they should be sure to cite the data sources used and provide access or links to the source data. Participants are also free to publish an API for their visualization so that others can build on and extend the work.

Eligibility Rules for Participating in the Competition

To be eligible to win a prize under this challenge, an individual or entity—

(1) Shall have registered to participate in the competition under the rules promulgated by the Office of Business Management and Transformation.

(2) Shall have complied with all the requirements under this section.

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States.

(4) May not be a Federal entity or Federal employee acting within the scope of their employment.

(5) Shall not be an HHS employee working on their applications or submissions during assigned duty hours.

(6) Shall not be an employee of Office Business Management and Transformation at HHS.

(7) Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award.

(8) Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made equitably available to all individuals and entities participating in the competition.

Entrants must agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from my participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise.

Entrants must also agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities.

Registration Process for Participants

To register for this Challenge, participants can access the challenge Web site: *http://www.hhsvizrisk.org/* and click on Sign up, which will lead participants to an Eventbrite page: *https://www.eventbrite.com/e/hhs-vizrisk-tickets-12020604953.*

Prizes

- Total: $15,000 in Prizes
- Awarded to best overall projects based on the three criteria established.
  - Grand Prize—$6,000
  - Second Prize—$3,000
  - Third Prize—$2,000
- Awarded to projects best embodying each of the characteristics below.
  - Relevance Prize—$1,000
  - Design Prize—$1,000
  - Innovation Prize—$1,000
  - Scientific Excellence Prize—$1,000

Payment of the Prizes

Prize will be paid by HHS Office of Business Management and Transformation.

Basis Upon Which Winner Will Be Selected

The review panel will make selections based upon the following criteria:

- *25% Innovation*—novel combination, integration, and application of data
- *25% Relevance*—health data relationships are comparable across time, geographies, and populations
- *25% Design*—visually appealing, elegant, intuitive interface and visualizations
- *25% Scientific Excellence*—rigorously measured relationships adhere to the principles of scientific inquiry

Projects built around suggested directions and de novo projects will be weighted equally. In order for submissions to be evaluated, they must include clear, detailed processes on how

they were produced, including any code if applicable. The processes can be submitted in text document.

In order for an entry to be eligible to win this Challenge, it must meet the following requirements:

1. Acceptable platforms—The tool must be designed for use with existing Web, mobile Web, electronic health record, or other platform.

2. Section 508 Compliance—Contestants must acknowledge that they understand that, as a prerequisite to any subsequent acquisition by FAR contract or other method, they are required to make their proposed solution compliant with Section 508 accessibility and usability requirements at their own expense. Any electronic information technology that is ultimately obtained by HHS for its use, development, or maintenance must meet Section 508 accessibility and usability standards. Past experience has demonstrated that it can be costly for solution-providers to "retrofit" solutions if remediation is later needed. The HHS Section 508 Evaluation Product Assessment Template, available at *http://www.hhs.gov/od/vendors/index.html,* provides a useful roadmap for developers to review. It is a simple, web-based checklist utilized by HHS officials to allow vendors to document how their products do or do not meet the various Section 508 requirements.

3. No HHS or OBMT logo—The app must not use HHS' or OBMT's logos or official seals in the Submission, and must not claim endorsement.

4. Functionality/Accuracy—A submission may be disqualified if it fails to function as expressed in the description provided by the user, or if it provides inaccurate or incomplete information.

5. Security—Submissions must be free of malware. Contestant agrees that OBMT may conduct testing on the app to determine whether malware or other security threats may be present. OBMT may disqualify the Submission if, in OBMT's judgment, the app may damage government or others' equipment or operating environment.

Additional Information

General Conditions: OBMT reserves the right to cancel, suspend, and/or modify the Contest, or any part of it, for any reason, at OBMT's sole discretion.

Intellectual Property

- Each entrant retains full ownership and title in and to their submission. Entrants expressly reserve all intellectual property rights not expressly granted under the challenge agreement.
- By participating in the challenge, each entrant hereby irrevocably grants to OBMT a limited, non-exclusive, royalty-free, worldwide license and right to reproduce, publically perform, publically display, and use the submission for internal HHS business and to the extent necessary to administer the challenge, and to publically perform and publically display the Submission, including, without limitation, for advertising and promotional purposes relating to the challenge.

Dated: July 11, 2014.

E.J. Holland, Jr.,

Assistant Secretary for Administration, U.S. Department of Health and Human Services.

[FR Doc. 2014–17065 Filed 7–18–14; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Behavioral Programs for Diabetes Mellitus

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Scientific Information Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of Behavioral Programs for Diabetes Mellitus, which is currently being conducted by the Evidence-based Practice Centers for the AHRQ Effective Health Care Program. Access to published and unpublished pertinent scientific information will improve the quality of this review. AHRQ is conducting this systematic review pursuant to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173, and Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: Submission Deadline on or before August 20, 2014.

ADDRESSES:

Online submissions: *http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/.* Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: *SIPS@epc-src.org.*

Print submissions: Mailing Address: Portland VA Research Foundation Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, PO Box 69539, Portland, OR 97239, Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 58653 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Effective Health Care (EHC) Program Evidence-based Practice Centers to complete a review of the evidence for Behavioral Programs for Diabetes Mellitus.

The EHC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies that report on Behavioral Programs for Diabetes Mellitus, including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1917.*

This notice is to notify the public that the EHC Program would find the following information on Behavioral Programs for Diabetes Mellitus helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.
- For completed studies that do not have results on ClinicalTrials.gov, please provide a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- A list of ongoing studies that your organization has sponsored for this indication. In the list, please provide the ClinicalTrials.gov trial number or, if the

trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

• Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EHC Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EHC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EHC Program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1917.*

The Key Questions

Question 1

For patients with Type 1 Diabetes Mellitus (T1DM), are behavioral programs implemented in a community health setting effective compared with usual or standard care, or active comparators in, a) improving behavioral, clinical, and health outcomes, b) improving diabetes-related health care utilization, and c) achieving program acceptability as measured by participant attrition rates?

Question 2

For patients with T1DM, do behavioral programs implemented in the community health setting differ in effectiveness for behavioral, clinical, and health outcomes, their effect on diabetes-related health care utilization, or program acceptability, for subgroups of patients based on: Age (i.e., children and adolescents [≤18 years] and their families, young adults [19–30 years], adults [31–64 years], older adults [≥65 years]); race or ethnicity; socioeconomic status (e.g., family income, education level, literacy); time since diagnosis (i.e., ≤1 year vs. >1 year); and, level of glycemic control (e.g., HbA1c <7 vs. ≥7 percent)?

Question 3

For patients with T1DM, does the effectiveness of behavioral programs differ based on the: (a) Components; (b) intensity (i.e., program duration, frequency/periodicity of interactions); (b) delivery personnel (e.g., dietitian, exercise specialist, physician, nurse practitioner, certified diabetes educator, lay health worker); (c) method of communication (e.g., individual vs. group, face-to-face, interactive behavior change technology, social media); (d) degree of tailoring based on needs assessment (e.g., educational/behavioral deficits, age or other demographics, readiness to change); or (e) level and nature of community engagement?

Question 4

For patients with T1DM, what are the associated harms (i.e., activity-related injury) of behavioral programs implemented in a community health setting compared with usual care, standard care, or active comparators?

Question 5

Among behavioral programs targeted at adults with Type 2 Diabetes Mellitus (T2DM) implemented in a community health setting, what factors contribute to: (a) Their effectiveness for behavioral, clinical, and health outcomes; (b) their effect on diabetes-related health care utilization; and (c) program acceptability as measured by participant attrition rates? Factors include program components, program intensity, delivery personnel, methods of delivery and communication, degree of tailoring, and community engagement.

Question 6

Do the factors that contribute to program effectiveness for patients with T2DM vary across the following subpopulations: Age (i.e., young adults [19–30 years], adults [31–64 years], older adults [≥65 years]); race or ethnicity; socioeconomic status (e.g., family income, education level, literacy); time since diagnosis (i.e., ≤1 year vs. >1 year); and, level of glycemic control (i.e., HbA1c <7 vs. ≥7 percent)?

PICOTS (Patients, Interventions, Comparators, Outcomes, Timing, and Setting) Criteria

PICOTS frameworks are presented below for the Key Questions that relate to Type 1 Diabetes Mellitus (T1DM) and Type 2 Diabetes Mellitus (T2DM). These frameworks will guide all the stages of the systematic review, including literature searching, study selection, and data abstraction.

Key Questions 1–4

Population

Patients with T1DM (any age) who have undergone basic diabetes education.

Interventions

- Multicomponent behavioral program that includes at least one of:
  - Diabetes self-management education; OR
  - Structured dietary intervention (related to any of weight loss, glycemic control, or reducing risk for complications) together with one or more additional components; OR
  - Structured exercise/physical activity intervention together with one or more additional components.
  - Additional components may include interventions related to: Diet or physical activity, behavioral change (including but not limited to: Goal setting, problem solving, motivational interviewing, coping skills training, cognitive behavioral therapy strategies), relaxation or stress reduction, blood glucose awareness, medication adherence, or self-monitoring for diabetic complications (foot, eye, and renal tests).
- Repeated provision by one or more trained individuals
- Duration of intervention: minimum 4 weeks

Comparators

- Usual or standard care or an active comparator (e.g., behavioral program or intervention) as reported for studies
- Delivery methods (personnel, intensity, communication methods, etc.) as reported for studies

Outcomes

- Behavioral outcomes
  - Self-regulation of insulin based on diet, physical activity, and glucose monitoring results
  - Change in physical activity (e.g., volume of activity per week) or fitness (e.g., cardiorespiratory fitness, strength)

- Change in dietary or nutrient intake (i.e., energy intake, saturated fat consumption)
- Adherence to treatment, including self-monitoring and medication

- Clinical outcomes
  - Glycemic control (Hemoglobin Alt)
  - Change in body composition (i.e., weight, Body Mass Index, waist circumference, % body fat)
  - Episodes of severe hypoglycemia
  - Treatment for hyperglycemia (ketoacidosis)
  - Control of blood pressure and lipids
  - Development or control of depression or anxiety
- Health outcomes
  - Quality of life (e.g., validated tools for health-related quality of life, life satisfaction, psychosocial adaptation to illness, patient satisfaction)
  - Development of micro- and macrovascular complications (i.e., retinopathy, nephropathy, neuropathy, cardiovascular outcomes)
  - Mortality (all-cause)
- Diabetes-related health care utilization
  - Hospital admissions
  - Length of stay in hospital
  - Emergency department admissions
  - Visits to specialist clinics
- Program acceptability as measured by participant attrition rates
- Harms from program as reported for studies
- Activity-related injury

Timing

Any length of followup

Study Design

Prospective comparative studies using a best evidence approach based on hierarchy of evidence: randomized controlled trials, nonrandomized controlled trials, prospective cohort studies, controlled before-after studies

Settings

- Community health setting (i.e., ambulatory care clinics, outpatient clinics, primary care clinics, family physician clinics, Community Health Centers, Rural Health Centers)
- United States or other high-income countries with a very high Human

Development Index

Key Questions 5–6

Population

Adults (≥18 years) with T2DM who have undergone primary diabetes education

Interventions

- Multicomponent behavioral programs that include at least one of:
  - Diabetes self-management education; OR
  - Structured dietary intervention (related to any of weight loss, glycemic control, or reducing risk for complications) together with one or more additional components; OR
  - Structured exercise/physical activity intervention together with one or more additional components.
  - Additional components may include interventions related to: diet or physical activity, behavioral change (including but not limited to: Goal setting, problem solving, motivational interviewing, coping skills training, cognitive behavioral therapy strategies), relaxation or stress reduction, blood glucose awareness, medication adherence, or self-monitoring for diabetic complications (foot, eye, and renal tests).
- Repeated provision by one or more trained individuals
- Duration of intervention: Minimum 4 weeks

Comparators

- Usual or standard care or an active comparator (e.g., behavioral program or intervention) as reported for studies
- Delivery methods (personnel, intensity, communication methods etc.) as reported for studies

Outcomes

- Behavioral outcomes
  - Change in physical activity (e.g., volume of activity per week) or fitness (e.g., cardiorespiratory fitness, strength)
  - Change in dietary or nutrient intake (i.e., energy intake, saturated fat consumption)
  - Adherence to medication
- Clinical outcomes
  - Glycemic control (Hemoglobin Mc)
  - Change in body composition (i.e., weight, Body Mass Index, waist circumference, % body fat)
  - Control of blood pressure and lipids
  - Sleep apnea or sleep quality
  - Development or control of depression or anxiety
- Health outcomes
  - Quality of life (e.g., validated tools for health-related quality of life, life satisfaction, psychosocial adaptation to illness, patient satisfaction)
  - Development of micro- and macrovascular complications (i.e., retinopathy, nephropathy, neuropathy, cardiovascular outcomes)
  - Mortality (all-cause)
- Diabetes-related health care utilization
  - Hospital admissions
  - Length of stay in hospital
  - Emergency department admissions
  - Visits to specialist clinics
- Program acceptability as measured by participant attrition rates

Timing

Any length of followup

Study design

Randomized controlled trials

Settings

- Community health setting (i.e., ambulatory care clinics, outpatient clinics, primary care clinics, family physician clinics, Community Health Centers, Rural Health Centers)
- United States or other high-income country with a very high Human Development Index

Language

English

Dated: July 3, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–16669 Filed 7–18–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Statement of Organization, Functions, and Delegations of Authority

Part E, Chapter E (Agency for Healthcare Research and Quality), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (61 FR 15955–58, April 10, 1996, most recently amended at 78 FR 38981, on June 28, 2013) is amended to reflect recent organizational changes. The specific amendments are as follows:

I. Under Section E–10, Organization, delete all components and replace with the following:

A. Office of the Director.

B. Center for Delivery, Organization, and Markets.

C. Center for Financing, Access, and Cost Trends.

D. Center for Evidence and Practice Improvement.

E. Center for Quality Improvement and Patient Safety.

F. Office of Communications and Knowledge Transfer.

G. Office of Extramural Research, Education, and Priority Populations.

H. Office of Management Services.

II. Under Section E–20, Functions, delete Center for Outcomes and Evidence (EJ) and Center for Primary Care, Prevention, and Clinical Partnerships (EK) in its entirety and replace with the following:

Center for Evidence and Practice Improvement (EK). Generates new knowledge, synthesizes evidence, translates science for multiple stakeholders, and catalyzes practice improvement. Specifically: (1) Conducts and supports evidence synthesis and research on health care delivery and improvement that is informed by the needs of patients, clinicians, and policy makers, including providing scientific, administrative and dissemination support for the U.S. Preventive Services Task Force; (2) advances decision and communication sciences and implementation research to facilitate informed treatment and health care decision making by patients and their health care providers and serving as a trusted source for evidence-based tools, decision aids, and other products about what works in health care and practice improvement; (3) explores how health information technology can improve clinical decision making and health care quality and helping Federal partners and health care stakeholders use this evidence; (4) catalyzes and sustains ongoing improvements in clinical practice across health care settings through research, demonstration projects, and partnership development; (5) operates the National Center for Excellence in Primary Care Research.

Division of the Evidence-Based Practice Center Program (EKB). Produces evidence syntheses by conducting systematic evidence reviews using robust and rigorous methodologies to advance the methods of evidence synthesis to ensure scientific rigor and unbiased reviews of evidence.

Division of U.S. Preventive Services Task Force Support (EKC). Provides scientific, administrative, and dissemination support for the independent U.S. Preventive Services Task Force, enabling the Task Force to make evidence-based recommendations on clinical preventive services.

Division of Decision Science and Patient Engagement (EKD). Provides evidence-based tools, decision aids, and other products that address what works in health care and practice improvement. Specifically: (1) Translates complex scientific evidence into tools and products targeted to diverse stakeholders that facilitate informed health care decision making and (2) engages with stakeholders to advance the field of evidence-based decision making to improve methods for engagement of all communities in health care decision making.

Division of Health Information Technology (EKE). Develops and disseminates evidence and evidence-based tools to inform policy and practice on how health information technology can improve the quality of health care.

Division of Practice Improvement Science and Implementation (EKF). Engages stakeholders and communities of learning for practice improvement, serves as a trusted resource of evidence and tools for methods, measures, and evaluation of practice improvement. Specifically: (1) Explores how to facilitate practice transformation and improvement in diverse settings and (2) pilots innovative models of practice improvement.

All delegations and redelegations of authority to officers and employees of the Agency for Healthcare Research and Quality that were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegation provided they are consistent with this reorganization.

These changes are effective upon date of signature.

Dated: July 9, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–17126 Filed 7–18–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–14YK]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Information Collection on Cause-Specific Absenteeism in Schools—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), requests approval of a new information collection to better understand the triggers, timing and duration of the use of school related measures for preventing and controlling the spread of influenza during the next pandemic.

The information collection for which approval is sought is in accordance with DGMQ/CDC's mission to reduce morbidity and mortality in mobile populations, and to prevent the introduction, transmission, or spread of communicable diseases within the United States. Insights gained from this information collection will assist in the

planning and implementation of CDC Pre-Pandemic Guidance on the use of school related measures, including school closures, to slow transmission during an influenza pandemic.

School closures were considered an important measure during the earliest stage of the 2009 H1N1 pandemic, because a pandemic vaccine was not available until October (6 months later), and sufficient stocks to immunize all school-age children were not available until December. However, retrospective review of the U.S. government response to the pandemic identified a limited evidence-base regarding the effectiveness, acceptability, and feasibility of various school related measures during mild or moderately severe pandemics. Guidance updates will require an evidence-based rationale for determining the appropriate triggers, timing, and duration of school related measures, including school closures, during a pandemic.

CDC staff proposes that the information collection for this package will target adult and child populations in a school district in Wisconsin. CDC will collect reports of individual student symptoms, vaccination status, recent travel, recent exposure to people with influenza symptoms and duration of illness; this will be accomplished through telephone and in-person interviews.

Findings obtained from this information collection will be used to inform the update CDC's Pre-pandemic Guidance on the implementation of school related measures to prevent the spread of influenza, especially school closures. This Guidance is used as an important planning and reference tool for both State and local health departments in the United States.

CDC estimates that 1,500 participants could be recruited by information collections covered by this information collection. It is estimated that information collection activities will total 3,500 burden hours per year. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Parents of children/adolescents attending schools (Wisconsin).	Screening Form	1,500	4	5/60
Parents of children/adolescents attending schools (Wisconsin).	Acute Respiratory Infection and Influenza Surveillance Form.	1,500	4	30/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–17051 Filed 7–18–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–14–0556]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public 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. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Assisted Reproductive Technology (ART) Program Reporting System (OMB No. 0920–0556, expires 8/31/2015)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 2(a) of Public Law 102–493 (known as the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA), 42 U.S.C. 263a–1(a)), requires that each assisted reproductive technology (ART) program shall annually report to the Secretary through the Centers for Disease Control and Prevention: (1) Pregnancy success rates achieved by such ART program, and (2) the identity of each embryo laboratory used by such ART program and whether the laboratory is certified or has applied for such certification under the Act. The required information is reported by ART programs to CDC as specified in the Assisted Reproductive Technology (ART) Program Reporting System (OMB No. 0920–0556, exp. 8/31/2015).

The currently approved program reporting system, also known as the

National ART Surveillance System (NASS), includes information about all ART cycles initiated by any of the ART programs in the United States. An ART cycle is considered to be initiated when a woman begins taking ovarian stimulatory drugs or starts ovarian monitoring with the intent of transferring one or more embryos. CDC also collects information about the pregnancy outcome of each cycle, as well as a number of data items deemed important to explain variability in success rates across ART programs and across individuals.

Each ART program reports its annual ART cycle data to CDC in mid-December. The annual data reporting consists of information about all ART cycles that were initiated in the previous calendar year. For example, the December 2013 reports described ART cycles that were initiated between January 1, 2012, and December 31, 2012. Data elements and definitions currently in use reflect CDC's prior consultations with representatives of the Society for Assisted Reproductive Technology (SART), the American Society for Reproductive Medicine, and RESOLVE: the National Infertility Association (a national, nonprofit consumer organization), as well as a variety of individuals with expertise and interest in this field.

CDC, the data collection contractor, and partner organizations engage in ongoing dialogue to identify opportunities for improvement. As a result of these discussions, a number of changes to the NASS data elements and the NASS reporting platform are under consideration and will be submitted to OMB for approval. Changes to the NASS data elements are essential to keep pace with changes in medical practice, ensure that reported success rates reflect standardized definitions, and provide additional insight into factors that may affect success rates. Specific changes to the NASS data elements include the addition of new items as well as modification or discontinuation of selected items. CDC also plans to redesign the graphical interface for NASS. In addition to reflecting the changes in data items, NASS data entry pages will be redesigned for more intuitive grouping of data items and will employ embedded skip logic to route users to the minimum number of applicable questions. Respondents will have the option of entering data directly into the Web-based NASS interface or of transmitting system-compatible files extracted from other record systems. On an annual basis, approximately ten percent of responding clinics are also selected to participate in data validation and quality control activities.

Implementation of these changes for ART cycles initiated on or after January 1, 2015, is under consideration, but may be deferred until January 1, 2016. During the period of this revision, the estimated number of respondents (ART programs or clinics) will increase from 440 to 450; the estimated number of ART cycles reported by each clinic will increase from 339 to 360; and the estimated burden per response will increase from 39 minutes to 40 minutes.

In addition, respondents may provide feedback to CDC about the usability and utility of the reporting system. The option to participate in the feedback survey is presented to respondents when they complete their required data submission. However, participation in the feedback survey is voluntary and is not required by the FCSRCA. CDC estimates that 75% of ART programs will participate in the feedback survey.

The collection of ART cycle information allows CDC to publish an annual report to Congress as specified by the FCSRCA and to provide information needed by consumers. Overall, the proposed changes will support CDC's ability to generate timely, accurate, and relevant information about fertility clinic success rates and improve user satisfaction with the NASS interface.

OMB approval is requested for three years and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
ART Programs	NASS	450	360	40/60	108,000
	Feedback Survey	338	1	2/60	11
Total					108,011

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–17033 Filed 7–18–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR)

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 teleconference meeting of the aforementioned committee:

Time And Date: 2:00 p.m.–4:00 p.m., August 11, 2014.

Place: Teleconference.

Status: Open to the public, limited only by the conference lines available. The toll-free, dial-in number is 1–877–315–6535 and the passcode is 383520.

Purpose: The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC and Administrator, NCEH/ATSDR, are authorized under Section 301(42 U.S.C. 241) and Section 311(42 U.S.C. 243) of the Public Health Service Act, as amended, to: (1) Conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases

and other impairments; (2) assist states and their political subdivisions in the prevention of infectious diseases and other preventable conditions and in the promotion of health and well being; and (3) train state and local personnel in health work. The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC and Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agency's mission to protect and promote people's health. The board provides advice and guidance that will assist NCEH/ATSDR in ensuring scientific quality, timeliness, utility, and dissemination of results. The board also provides guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Matter For Discussion: The agenda item for the BSC Meeting will include a discussion on establishing a subcommittee to the BSC on Childhood Lead Poisoning Prevention.

Agenda item is subject to change as priorities dictate.

Supplemental Information: The public is welcome to participate during the public comment period, tentatively scheduled on August 11, 2014, from 3:15 p.m., until 3:25 p.m.

Contact Person For More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, CDC, 4770 Buford Highway, Mail Stop F–61, Chamblee, Georgia 30345; Telephone: 770/488–0575 or 770/488–0755, Fax: 770/488–3377; Email: *smalcom@cdc.gov*.

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 (CDC).

[FR Doc. 2014–17059 Filed 7–18–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC)

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 committee:

Time and Date: 2:00 p.m.–3:00 p.m., August 11, 2014 (CLOSED).

Place: Teleconference.

Status: The meeting as designated above will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC pursuant to Public Law 92–463.

Purpose: The Board of Scientific Counselors makes recommendations regarding policies, strategies, objectives, and priorities; and reviews progress toward injury prevention goals and provides evidence in injury prevention-related research and programs. The Board also provides advice on the appropriate balance of intramural and extramural research, as well as the structure, progress, and performance of intramural programs. The Board is designed to provide guidance on extramural scientific program matters, including the: (1) Review of extramural research concepts for funding opportunity announcements; (2) conduct of Secondary Peer Review of extramural research grants, cooperative agreements, and contracts applications received in response to funding opportunity announcements, in relation to the Center's programmatic balance and mission; (3) submission of secondary review recommendations to the Center Director of applications to be considered for funding support; (4) review of research portfolios, and (5) review of program proposals.

Matters For Discussion: The Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC) will meet to conduct a Secondary Peer Review of an extramural research grant application received in response to Funding Opportunity Announcement (FOA) Evaluating Promising Strategies to Build the Evidence Base for Sexual Violence Prevention, CE14–005. The application will be assessed for applicability to the Center's mission and programmatic balance. Recommendations from the secondary review will be voted upon and the application will be forwarded to the Acting Center Director for consideration for funding support.

Contact Person for More Information: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE., Mailstop F–63, Atlanta, Georgia 30341, Telephone (770) 488–1430.

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. 2014–17058 Filed 7–18–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices (ACIP)

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) announce the following meeting of the aforementioned committee.

Time and Date: 2:00 p.m.–4:30 p.m. EDT, August 13, 2014.

Place: Teleconference.

Status: This meeting is open to the public, limited only by the availability of telephone ports and webinar.

Participants can join the event directly at: *https://www.mymeetings.com/nc/join.php?i=PW7936898&p=5994905&t=c.* USA Telephone Dial-in number: 1–800–369–1780. Participant passcode: 5994905 or *URL: https://www.mymeetings.com/nc/join/.*

Conference number: PW7936898.

Audience passcode: 5994905.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contra-indications applicable to the vaccines. Further, under provisions of the Affordable Care Act, at section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been adopted by the Director of the Centers for Disease Control and Prevention must be covered by applicable health plans.

Matters for Discussion: The agenda will include discussions on: Use of 13-valent pneumococcal conjugate vaccine and 23-valent pneumococcal polysaccharide vaccine in adults 65 years of age and older. A recommendation vote is scheduled. Time will be available for public comment.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Stephanie B. Thomas, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road, NE., MS–A27, Atlanta, Georgia 30333, telephone 404/639–8836; Email *ACIP@CDC.GOV.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–17057 Filed 7–18–14; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.612]

Announcement of the Award of an Emergency Single-Source Grant to the Louden Tribal Council in Galena, AK

AGENCY: Administration for Native Americans, ACF, HHS.

ACTION: Announcement of the award of an emergency single-source grant to Louden Tribal Council in Galena, AK, to rebuild tribal operations following a devastating flood and ice jams that occurred between May 17–June 11, 2013.

SUMMARY: The Administration for Children and Families (ACF), Administration for Native Americans (ANA) announces the award of an emergency single-source grant in the amount of $153,021 to the Louden Tribal Council in Galena, AK. The award will be made under ANA's program for Social and Economic Development Strategies.

DATES: The award will be issued for a project period of June 1, 2014 through September 29, 2015.

FOR FURTHER INFORMATION CONTACT: Carmelia Strickland, Director, Division of Program Operations, Administration for Native Americans, 370 L'Enfant Promenade SW., Washington, DC 20047. Telephone: 877–922–9262; Email: *Carmelia.strickland@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Award funds will assist the tribe to rebuild tribal operations following a devastating flood that occurred in the spring and summer of 2013. On June 25, President Barack Obama issued a major disaster declaration for the State of Alaska (FEMA–4122–DR). The need for the award is documented through the Federal Emergency Management Agency reports that are available at *http://www.fema.gov/disaster/4122.* Of the 204 homes in the village, all but 9 were damaged.

Galena is a rural Athabascan village that has a population of 794 located on the Yukon River and is 400 miles from the nearest road system. Galena Village's governing body is the Louden Tribal Council and tribal members represent 75 percent of the population of the city of Galena.

Award funds for the 16-month project will address tribal governance needs, including the refurbishment of four tribal program offices, recovery and rebuilding of tribal records and data files, and re-establishing tribal communications and networking capacity by providing for the assistance of professional IT services. The tribe seeks to return to optimal operational capacity to allow for the timely and efficient delivery of services to its tribal members.

Statutory Authority: This program is authorized under § 803(a) of the Native American Programs Act of 1974 (NAPA), 42 U.S.C. 2991b.

Melody Wayland,

Senior Grants Policy Specialist, Division of Grants Policy, HHS/Administration for Children and Families.

[FR Doc. 2014–17011 Filed 7–18–14; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[C.F.D.A. Number: 93.568]

Notice of LIHEAP State Median Income Estimates for FFY 2015

AGENCY: Office of Community Services, ACF, HHS.

ACTION: State Median Income Estimates for a Four-Person Household: Notice of the Federal Fiscal Year (FFY) 2015 State Median Income Estimates for Use in the Low Income Home Energy Assistance Program (LIHEAP).

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), Division of Energy Assistance (DEA) announces the estimated median income of four-person households in each state, the District of Columbia, and Puerto Rico for FFY 2015 (October 1, 2014, to September 30, 2015).

DATES: *Effective Date:* These estimates become effective at any time between the date of this publication and the later of (1) October 1, 2014; or (2) the beginning of a grantee's fiscal year.

FOR FURTHER INFORMATION CONTACT: Peter Edelman, Program Analyst, Office of Community Services, 5th Floor West, 370 L'Enfant Promenade SW., Washington, DC 20447. Telephone: 202–401–5292; Email: *peter.edelman@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: This notice announces to grantees of the Low Income Home Energy Assistance Program (LIHEAP) the estimated median income of four-person households in each state, the District of Columbia, and Puerto Rico for FFY 2015 (October 1, 2014, to September 30, 2015). LIHEAP grantees that choose to base their income eligibility criteria on these state median income (SMI) estimates may adopt these estimates (up to 60 percent) on their date of publication in the **Federal Register** or on a later date as discussed in the "Dates" section. This enables grantees to implement this notice during the period between the heating and cooling seasons. However, by October 1, 2014, or the beginning of the grantee's fiscal year, whichever is later, such grantees must adjust their income eligibility criteria so that they are in accord with the FFY 2015 SMI.

Sixty percent of SMI for each LIHEAP grantee, as annually established by the Secretary of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's income eligibility for LIHEAP. The last time LIHEAP was authorized was by the Energy Policy Act of 2005, Public Law 109–58, which was enacted on August 8, 2005. This authorization expired on September 30, 2007, and reauthorization remains pending.

The SMI estimates in this notice are 3-year estimates derived from the American Community Survey (ACS) conducted by the U.S. Census Bureau, U.S. Department of Commerce (Census Bureau).

For additional information about the ACS state median income estimates, including the definition of income and the derivation of medians see *http://www.census.gov/acs/www/Downloads/data_documentation/SubjectDefinitions/2012_ACSSubjectDefinitions.pdf* under "Income in the Past 12 Months." For additional information about using the ACS 3-year estimates vs. using the 1-year or 5-year estimates, see *http://www.census.gov/acs/www/guidance_for_data_users/estimates/.* For additional information about the ACS in general, see *http://www.census.gov/acs/www/* or contact the Census Bureau's Social, Economic, and Housing Statistics Division at (301) 763–3243.

These SMI estimates, like those derived from any survey, are subject to two types of errors: (1) Non-sampling Error, which consists of random errors that increase the variability of the data

and non-random errors that consistently shift the data in a specific direction; and (2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample. For additional information about the accuracy of the ACS SMI estimates, see *http://www.census.gov/acs/www/Downloads/data_documentation/Accuracy/MultiyearACSAccuracyofData2012.pdf.*

In the state-by-state listing of SMI and 60 percent of SMI for a four-person family for FFY 2015, LIHEAP grantees must regard "family" to be the equivalent of "household" with regards to setting their income eligibility criteria. This listing describes the method for adjusting SMI for households of different sizes, as specified in regulations applicable to LIHEAP (45 CFR 96.85(b)). These regulations were published in the **Federal Register** on March 3, 1988, (53 FR 6827) and amended on October 15, 1999 (64 FR 55858).

ESTIMATED STATE MEDIAN INCOME FOR FOUR-PERSON FAMILIES, BY STATE, FOR FEDERAL FISCAL YEAR (FFY) 2015

[For use in the Low Income Home Energy Assistance Program (LIHEAP)]

States	Estimated state median income for four-person families [1]	60 percent of estimated state median income for four-person families [2 3]
Alabama	$65,575	$39,345
Alaska	89,082	53,449
Arizona	63,560	38,136
Arkansas	58,947	35,368
California	76,804	46,082
Colorado	85,182	51,109
Connecticut	104,214	62,528
Delaware	85,261	51,157
District of Columbia	100,408	60,245
Florida	65,166	39,100
Georgia	67,885	40,731
Hawaii	85,096	51,058
Idaho	62,088	37,253
Illinois	82,114	49,268
Indiana	71,057	42,634
Iowa	76,955	46,173
Kansas	75,582	45,349
Kentucky	67,026	40,216
Louisiana	69,514	41,708
Maine	77,344	46,406
Maryland	106,452	63,871
Massachusetts	104,545	62,727
Michigan	73,991	44,395
Minnesota	89,824	53,894
Mississippi	56,573	33,944
Missouri	71,915	43,149
Montana	69,557	41,734
Nebraska	74,905	44,943
Nevada	65,832	39,499
New Hampshire	97,547	58,528
New Jersey	105,497	63,298
New Mexico	58,215	34,929
New York	84,381	50,629
North Carolina	66,844	40,106
North Dakota	86,170	51,702
Ohio	75,188	45,113
Oklahoma	64,091	38,455
Oregon	68,929	41,357
Pennsylvania	81,802	49,081
Rhode Island	89,587	53,752
South Carolina	63,212	37,927
South Dakota	73,736	44,242
Tennessee	63,997	38,398
Texas	67,757	40,654
Utah	68,036	40,822
Vermont	81,615	48,969
Virginia	91,442	54,865
Washington	83,863	50,318
West Virginia	66,130	39,678
Wisconsin	80,612	48,367
Wyoming	76,526	45,916
Puerto Rico	28,861	17,317

[1] These figures were prepared by the U.S. Census Bureau, U.S. Department of Commerce (Census Bureau), from 3-year estimates from the 2010, 2011, and 2012 American Community Surveys (ACSs). These estimates, like those derived from any survey, are subject to two types of error: (1) Non-sampling Error, which consists of random errors that increase the variability of the data and non-random errors that consistently direct the data in a specific direction; and (2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample.

[2] These figures were calculated by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance by multiplying the estimated state median income for a four-person family for each state by 60 percent.

[3] To adjust for different sizes of households for LIHEAP purposes, 45 CFR 96.85 calls for multiplying 60 percent of a state's estimated median income for a four-person family by the following percentages: 52 percent for a one-person household, 68 percent for a two-person household, 84 percent for a three-person household, 100 percent for a four-person household, 116 percent for a five-person household, and 132 percent for a six-person household. For each additional household member above six people, 45 CFR 96.85 calls for adding 3 percentage points to the percentage for a six-person household (132 percent) and multiplying the new percentage by 60 percent of the median income for a four-person family.

Note: FFY 2015 covers the period of October 1, 2014, through September 30, 2015. The estimated median income for four-person families living in the United States for this period is $76,365. Grantees that use SMI for LIHEAP may, at their option, employ such estimates at any time between the date of this publication and the later of October 1, 2014 or the beginning of their fiscal year.

Statutory Authority: 45 CFR 96.85(b) and 42 U.S.C. 8624(b)(2)(B)(ii).

Dated: July 15, 2014.

Jeannie L. Chaffin,

Director, Office of Community Services.

[FR Doc. 2014–17063 Filed 7–18–14; 8:45 a.m.]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1151]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Experimental Study of Direct-to-Consumer Promotion Directed at Adolescents

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 20, 2014.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–NEW and title, "Experimental Study of Direct-to-Consumer (DTC) Promotion Directed at Adolescents." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Experimental Study of Direct-to-Consumer (DTC) Promotion Directed at Adolescents—(OMB Control Number 0910—NEW)

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 393(d)(2)(C) authorizes FDA to conduct research relating to drugs and other FDA regulated products in carrying out the provisions of the FD&C Act.

Sponsors for several prescription drug classes market their products directly to vulnerable groups, including adolescents. Such DTC marketing to adolescents raises a variety of potential concerns. Adolescents are a unique audience for DTC drug marketing because their cognitive abilities are different than those of adults, and they are usually dependent on adults for health insurance coverage, health care provider access, and prescription drug payment. Despite this uniqueness, research regarding how adolescents use risk and benefit information for health-related decisions is limited. If considered at all in healthcare communication research, age is typically treated as simply another segment of the audience (Ref. 1), and researchers fail to consider how *information processing* (how people understand information) in response to advertisement (ad) exposure might differ among adolescents versus older viewers.

The FD&C Act requires manufacturers, packers, and distributors that advertise prescription drugs to disclose certain information about a product's uses and risks to potential consumers in all advertisements. Consumers must consider tradeoffs with regard to the product's risks and benefits in deciding whether to ask their health care professionals about the product. Presenting technically factual information is important, but other factors can also affect potential consumers. Information processing capacity, the relevance and vividness of the information, and contextual factors such as family dynamics likely affect how adolescent consumers weigh the potential risks and benefits of using a product.

Despite the lack of previous research specific to DTC drug marketing to adolescents, existing theoretical and empirical data make a strong case for treating adolescence as a unique life stage during which vulnerabilities that can affect informed decisionmaking must be taken into account. Well-known theories of adolescent development have long pointed to developmental changes that occur during the transitional period as an individual moves from childhood to young adulthood (Ref. 2). For instance, Erikson (Refs. 3, 4) describes an often turbulent psychosocial crisis that occurs as adolescents strive to develop their unique identity. Piaget (Refs. 5, 6) and Kohlberg (Ref. 7) describe changes in stages relative to cognitive processing and reasoning that occur in this period, as the adolescent becomes increasingly capable of more abstract thinking. Different cognitive, social and emotional, and developmental processes in the adolescent brain mature simultaneously and at different rates, affecting decisionmaking by age. All of these factors can influence how adolescents perceive and process information as well as weigh risks and benefits.

The need for understanding how adolescents weigh risks and benefits is particularly critical given the potential adverse events associated with use of the drug classes that are marketed directly to adolescents. Suicide and suicidal ideation has been associated with some of these classes, including a commonly used class of acne medications. The risk and benefit information needs to be clearly presented in ways that adolescents can understand. Interpretation of more

subtle messages in the advertisements, along with the lens through which adolescents view the message, must be understood. For example, given the potential stigma of acne and adolescents' heightened concerns about peer perceptions, marketing that emphasizes these two features in subtle ways might minimize the attention given to any risk information provided. This suggests the need to systematically explore the role of various factors that would be expected to influence adolescent decision-making, such as peer and family perceptions of stigma.

We plan to conduct a randomized, controlled study in two different medical conditions that assesses adolescents' perceptions following exposure to different types of DTC prescription drug advertising. We plan to compare adolescents' perceptions to those of young adult counterparts. Each participant will view a Web-based promotional campaign for either a fictitious Attention Deficit Hyperactivity Disorder (ADHD) medication or a fictitious acne medication. Because adolescents typically depend on their parents for prescription drug purchases, we also will include a sample of parents matched to their adolescent children to explore similarities and differences in perceptions for these matched pairs.

Within the two medical conditions, we propose to explore the role of three different factors that may influence adolescent understanding and perceptions of DTC. Two of these factors include timing issues: The timing of the onset of benefits and the timing of the onset of risks. Adolescents may be particularly likely to give more credence to benefits that occur immediately and may be likely to discount risks that do not occur immediately. Research suggests that the frontal lobe, which controls self-regulatory functions, is not fully developed until the mid-20s (Ref. 8), which may lead to difficulty in impulse control and planning, and thus decisionmaking. Other research suggests that adolescents are more likely to engage in risky behavior, although whether they do this because they discount their own likelihood of experiencing risks or if they cannot help themselves despite having adequate perceptions of their own vulnerability has not been determined (Refs. 9, 10). Given the variety of prescription drug products on the market with varying benefit and risk profiles, these factors (benefit and risk timing) will enable us to investigate its role in adolescent processing of DTC ads.

We also propose to determine whether the severity of the risk within each condition influences adolescent decisionmaking in relation to DTC ads. Risk perceptions and risk taking have been active topics of exploration with regard to adolescents and thus the severity of the risks may play a role in determining whether and how adolescents attend to the benefit-risk profile of the prescription drugs they see advertised. This factor will also help us generalize further to different types of products, although we recognize that it will not cover the gamut of prescription drug products.

Although the variables we are examining are all attributes of the drug products themselves and do not reflect particular behaviors of sponsors, this information will be crucial in determining what types of prescription drugs may require additional care when advertising them to adolescents. One strength of the proposed study is that with two different medical conditions and multiple different variations in the benefit and risk profiles of the drugs, we will obtain a good representation of adolescent response to DTC ads. Moreover, in comparing adolescents with adults, we will have a better idea of how perceptions and understanding of benefits and risks in DTC ads differ across this part of the lifespan.

Within each of the two medical conditions, we will randomly assign participants to one of a number of experimental conditions. We propose for each medical condition a 2 (risk onset: immediate, delayed) × 2 (benefit onset: immediate, delayed) × 2 (risk severity: high, low) factorial design, based on the rationale in the prior section.

We will use the same risk (within medical conditions) to control for differences in severity (e.g. dry skin vs. cancer) and avoid confounds.

TABLE 1—EXPERIMENTAL CONDITIONS WITH THREE INDEPENDENT VARIABLES

Comparison group	Variable 1: Timing of risk: Immediate				Variable 1: Timing of risk: Delayed			
	Variable 2: Severity of risk (low)		Variable 2: Severity of risk (high)		Variable 2: Severity of risk (low)		Variable 2: Severity of risk (high)	
	Variable 3: Timing of benefit (immediate)	Variable 3: Timing of benefit (delayed)	Variable 3: Timing of benefit (immediate)	Variable 3: Timing of benefit (delayed)	Variable 3: Timing of benefit (immediate)	Variable 3: Timing of benefit (delayed)	Variable 3: Timing of benefit (immediate)	Variable 3: Timing of benefit (delayed)
Study 1 (Medical Condition A, Acne)								
Younger adolescents (13–15)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7	Group 8.
Older adolescents (16–19)	Group 9	Group 10	Group 11	Group 12	Group 13	Group 14	Group 15	Group 16.
Young adults (25–30)	Group 17	Group 18	Group 19	Group 20	Group 21	Group 22	Group 23	Group 24.
Parents	Group 25	Group 26	Group 27	Group 28	Group 29	Group 30	Group 31	Group 32.
Study 2 (Medical Condition B, ADHD)								
Younger adolescents (13–15)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7	Group 8.
Older adolescents (16–19)	Group 9	Group 10	Group 11	Group 12	Group 13	Group 14	Group 15	Group 16.
Young adults (25–30)	Group 17	Group 18	Group 19	Group 20	Group 21	Group 22	Group 23	Group 24.
Parents	Group 25	Group 26	Group 27	Group 28	Group 29	Group 30	Group 31	Group 32.

We will conduct the studies with two medical conditions that have particular relevance for adolescents—acne and ADHD. For ADHD, we will target a sample that has been diagnosed with the condition. If an appropriate sample size cannot be obtained, we will extend the sample by including adolescents with family members who have been diagnosed with ADHD to help ensure participants are interested in and paying attention to the topic. Since acne is

relevant for large numbers of people, it seems reasonable to draw the study sample from the general population. Both conditions have particular relevance for adolescents.

The study will enroll three specific age groups (13 to 15, 16 to 19, and 25 to 30 year-olds). We propose to explore differences in effects of the ad manipulations across these three age groups on a variety of outcomes, including benefit and risk recall, benefit and risk perceptions, and behavioral intentions. Certain ads may communicate more or less effectively with specific age groups. The presentation of immediate versus delayed risks, for example, might differentially affect teens and young adults. Additionally, we propose to examine factors unique to adolescent healthcare including relationship between parent and child, issues of stigma, and risk taking.

We will also recruit parents of the two younger age groups into the sample to explore potential differences between teen and parental perceptions. There are three reasons for including parents in the sample:

1. Adolescents and adults bring varied experiences and developmental capacities to everyday decisions. As a result, they may differ both in their perceptions of risks and benefits and in their evaluations of DTC. Matching parents and adolescents in the sample will allow us to conduct additional analyses to explore similarities and differences between parental and adolescent perceptions. By including parents of both younger and older adolescents, we can compare these groups to see if there are differences in parent-child risk-perception concordance/discordance across adolescence as a function of age.

2. Parents will serve as a fourth age group, which will allow us to conduct additional comparisons between the age categories. Increasing the number of age categories will allow us to look for differences between a greater range of age groups, and to see if clear patterns of age differences exist (e.g., it could be that the most significant differences are observed when comparing young adolescents and those over 30 years of age).

3. Including parent-child dyads will address the need for empirical data comparing adolescents' and their parents' evaluations of DTC prescription drug advertising.

Select experimental conditions will be pretested with 920 participants to assess questionnaire wording and implementation. Based on power analyses, the main study will include 5,120 completed participants, which will allow us enough power to test several possible covariates (factors other than our manipulated variables) that may have effects, such as demographic information.

The protocol will take place via the Internet. Participants will be randomly assigned to view one Web site ad for a fictitious prescription drug that treats either acne or ADHD and will answer questions about it. The entire process is expected to take no longer than 35 minutes. This will be a one-time (rather than annual) collection of information. The questionnaire is available upon request.

In the **Federal Register** of October 31, 2013 (78 FR 65326), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received two comment submissions. We outline the observations and suggestions raised in the two submissions and provide our responses:

(Comment 1) One comment mentioned that the document states the FDA will examine "adolescents' perceptions following exposure to different types of DTC prescription drug advertising" and asked if the Agency can clarify what "types" of ads will be studied? In particular, will Internet display ads, social media ads (e.g., Facebook), and mobile ads be considered?

(Response) As stated in the 60-day notice, participants will be randomly assigned to view one Web site ad for a fictitious prescription drug that treats either acne or ADHD. This ad will be similar to current Web site advertisements produced for pharmaceutical companies; however, all content will be on a single page, without active links to subpages. On the Web page, there will be an embedded video that resembles a television ad.

(Comment 2) One comment mentioned that the document states "The protocol will take place via the Internet. Participants will be randomly assigned to view one Web site ad for a fictitious prescription drug that treats either acne or ADHD and will answer questions about it." The commenter mentions that it appears that FDA will be specifically looking at Internet display ads and that FDA seems mainly concerned with "timing issues" that are not applicable to "Web based" promotional campaigns unless these are video campaigns, which can be YouTube campaigns or merely TV ads embedded in Web pages. The commenter asks for clarification.

(Response) To present the stimuli, we will produce a series of fictitious advertisements using a Web format with embedded video that are comparable to current advertisements produced for pharmaceutical companies. The "timing issues" that are being manipulated in the study are not related to timing of the presentation of the information in the ads, but to the adolescents' perception of the timing of the onset of benefits and the timing of the onset of risks of the drugs. We are specifically interested in learning whether adolescents are more likely than adults to give more credence to benefits that occur immediately and to discount risks that do not occur immediately.

(Comment 3) One comment mentions modifying the sample by including groups of symptomatic/undiagnosed adolescents and their parents in the study design because perception of risk may vary depending on whether an individual is diagnosed or not. The commenter states that diagnosed adolescents who are taking medication and who experience no side effects may be less sensitized to risk (just as their adult counterparts tend to be), because once they have experienced a medication with no accompanying side effects, the possibility of risk may seem more remote.

(Response) We agree that perception of risk may vary depending on whether or not an individual is diagnosed with the condition. In our design, adolescents do not have to have a medical diagnosis of acne to participate in the study. Because acne is a visible and commonly self-diagnosed condition, it is reasonable to include non-diagnosed individuals with acne in the study. However, for the ADHD condition, we aim to enroll only adolescents who are diagnosed with ADHD to avoid the potential confusions for "lay" or self-diagnosis of the condition.

(Comment 4) One comment mentions modifying the sample by including groups of symptomatic/undiagnosed adolescents and their parents in the study design because it will help better understand what the primary impact of DTC is on teens and to what extent DTC functions to help teens self-identify with a condition vs. advocate for a brand.

(Response) Although we agree that it would be interesting to examine the extent to which DTC advertising functions to help teens self-identify with a condition vs. advocate for a brand, this question is beyond the scope of this study. The ads used in this study are intended to assess risk perceptions in DTC ads, not to examine identity measures, brand recognition or advocacy.

(Comment 5) One comment mentions modifying the sample by including subsets of diagnosed teens who are currently medicating for ADHD, vs. nonmedicating, and, as part of the exit interview, capture data on those who have experienced side effects from medication, vs. those who have not.

(Response) We agree that we should include teens who are both currently medicating and nonmedicating. Although we are not screening participants based upon their medication status, we will be asking participants about their current and past use of medications and will explore this as part of our analysis. We also agree that it would be interesting to explore differences for teens who have experienced side effects and those who have not experienced side effects since experience with side effects might affect perception of the risk of the drugs in the study. Based upon this recommendation, we will add an item to the instrument to measure the participants' previous experience with side effects from medications. This item will serve as a moderator variable.

(Comment 6) One comment mentions not supplementing the sample with siblings of teens diagnosed with ADHD because they believe that adolescents who do not suffer from the symptoms of ADHD cannot truly evaluate the benefits of a treatment vs. its risk, in the absence of experiencing the symptoms first hand.

(Response) We agree that it is desirable to recruit a sample of adolescents who have been diagnosed with ADHD; therefore, we do not currently plan to recruit adolescents who have not been diagnosed with the condition. Preliminary estimates lead us to believe that we will be able to recruit a sufficient sample of adolescents who are diagnosed with ADHD. If, however, an appropriate sample size cannot be obtained, we plan to extend the sample by including adolescents with family members who have been diagnosed with ADHD rather than adolescents who are not at all familiar with the condition.

(Comment 7) One comment mentions modifications to topic areas to include questions about the role of teens in the decision to seek diagnosis, to medicate (or not), and the actual brand decision because it is also important to understand this processing within the context of the entire patient pathway.

(Response) We agree that it is important to know more about the role of teens in the decision to seek diagnosis, whether or not to medicate, and the actual brand decision. It is beyond the scope of this study to look at decisions regarding teens' roles in seeking diagnosis and brand decisionmaking. Our study does explore teen roles in decisionmaking about use of medication through the following questions:

1. Who would make the final decision about whether you would use this drug? (you/your [PARENT RELATIONSHIP]/you and your [PARENT RELATIONSHIP] together);
2. My [PARENT RELATIONSHIP] lets me decide what prescription medication I should or shouldn't take (scale ranging from always to never); and
3. My [PARENT RELATIONSHIP] asks me my preference when we discuss taking different medications (scale ranging from always to never).

(Comment 8) One comment mentions modifications to topic areas to include questions about the relative importance of various sources of information that impact teen perceptions of treatment options because teens consume media differently than their adult counterparts.

(Response) Although we agree that the relative importance of and preferences for various sources of information may affect the perception of treatment options, exploration of this topic is outside the scope of our current study.

(Comment 9) One comment mentions considering supplemental research methodologies because direct questioning does not always provide an accurate reflection of real-world behavior and to further bolster the findings of this study, consider engaging teen experts to study teens on behalf of FDA.

(Response) We agree with the comment that direct questioning does not always provide an accurate reflection of real-world behavior. To that end, we engaged 19 to 20 year-old college students as part of a teen "expert" work group during the development of the measurement instrument for this study in order to obtain items that provide the most accurate reflection possible. The teen/young adult consultants provided feedback on the measures and suggestions for revisions. Further involvement of teen "experts" would require a formal qualitative component of the study that we are unable to conduct at this time. However, a qualitative study to further explore decision making among teens could be a useful area for future research.

(Comment 10) One comment mentions considering supplemental research methodologies because in order to gain an accurate read on the processing of risk/benefit information, the stimuli should be depicted as realistically as possible and accurately reflect typical DTC in the category targeted to 13 to 17 year-olds.

(Response) We agree that it is important to depict the stimuli as realistically as possible. We will be modeling the stimuli after DTC ads being presented currently on the Web and on television, using similar language, graphic design techniques, and voiceover scripts. In addition, we will be attentive to current marketing norms with regard to selection of locations, wardrobe, and actors for the video ads.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Cognitive interviews	30	1	30	1.5 (90 min.)	45
Pretest 1 screener	8,730	1	8,730	.08 (5 min.)	698
Pretest 2 screener	1,930	1	1,930	.08 (5 min.)	154
Main study screener (acne)	7,142	1	7,142	.08 (5 min.)	571
Main study screener (ADHD)	43,086	1	43,086	.08 (5 min.)	3,447
Pretest 1 (420/medical condition)	900	1	900	0.5 (30 min.)	450
Pretest 2 (20/medical condition)	200	1	200	0.5 (30 min.)	100
Main study, 13–15 year-olds (both acne and ADHD)	1,300	1	1300	0.5 (30 min.)	650
Main study, 16–19 year-olds (both acne and ADHD)	1,300	1	1300	0.5 (30 min.)	650
Main study, young adults (both acne and ADHD)	1,300	1	1300	0.5 (30 min.)	650
Main study, parents (both acne and ADHD)	1,300	1	1300	0.5 (30 min.)	650

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Number of pretest/study completes	6,300				
Total					8,065

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

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Dated: July 15, 2014.

Peter Lurie,

Associate Commissioner for Policy and Planning.

[FR Doc. 2014–16998 Filed 7–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0998]

Agency Information Collection Activities; Proposed Collection; Comment Request; Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection in the regulations for in vivo radiopharmaceuticals used for diagnosis and monitoring.

DATES: Submit either electronic or written comments on the collection of information by September 19, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA 305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring—21 CFR Part 315—(OMB Control Number 0910–0409)—Extension

FDA is requesting OMB approval of the information collection requirements contained in 21 CFR 315.4, 315.5, and 315.6. These regulations require manufacturers of diagnostic radiopharmaceuticals to submit information that demonstrates the safety and effectiveness of a new diagnostic radiopharmaceutical or of a new

indication for use of an approved diagnostic radiopharmaceutical.

In response to the requirements of section 122 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), FDA published a final rule in the **Federal Register** of May 17, 1999 (64 FR 26657), amending its regulations by adding provisions that clarify the Agency's evaluation and approval of in vivo radiopharmaceuticals used in the diagnosis or monitoring of diseases. The regulation describes the kinds of indications of diagnostic radiopharmaceuticals and some of the criteria that the Agency would use to evaluate the safety and effectiveness of a diagnostic radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) (the FD&C Act) and section 351 of the Public Health Service Act (42 U.S.C. 262) (the PHS Act). Information about the safety or effectiveness of a diagnostic radiopharmaceutical enables FDA to properly evaluate the safety and effectiveness profiles of a new diagnostic radiopharmaceutical or a new indication for use of an approved diagnostic radiopharmaceutical.

The rule clarifies existing FDA requirements for approval and evaluation of drug and biological products already in place under the authorities of the FD&C Act and the PHS Act. The information, which is usually submitted as part of a new drug application or biologics license application or as a supplement to an approved application, typically includes, but is not limited to, nonclinical and clinical data on the pharmacology, toxicology, adverse events, radiation safety assessments, and chemistry, manufacturing, and controls. The content and format of an application for approval of a new drug are set forth in § 314.50 (21 CFR 314.50). Under part 315, information required under the FD&C Act and needed by FDA to evaluate the safety and effectiveness of in vivo radiopharmaceuticals still needs to be reported.

Based on the number of submissions (that is, human drug applications and/or new indication supplements for diagnostic radiopharmaceuticals) that FDA receives, the Agency estimates that it will receive approximately two submissions annually from two applicants. The hours per response refers to the estimated number of hours that an applicant would spend preparing the information required by the regulations. Based on FDA's experience, the Agency estimates the time needed to prepare a complete application for a diagnostic radiopharmaceutical to be approximately 10,000 hours, roughly one-fifth of which, or 2,000 hours, is estimated to be spent preparing the portions of the application that would be affected by these regulations. The regulation does not impose any additional reporting burden for safety and effectiveness information on diagnostic radiopharmaceuticals beyond the estimated burden of 2,000 hours because safety and effectiveness information is already required by § 314.50 (collection of information approved under OMB control number 0910–0001). In fact, clarification in these regulations of FDA's standards for evaluation of diagnostic radiopharmaceuticals is intended to streamline overall information collection burdens, particularly for diagnostic radiopharmaceuticals that may have well-established, low-risk safety profiles, by enabling manufacturers to tailor information submissions and avoid unnecessary clinical studies. Table 1 of this document contains estimates of the annual reporting burden for the preparation of the safety and effectiveness sections of an application that are imposed by existing regulations. This estimate does not include the actual time needed to conduct studies and trials or other research from which the reported information is obtained.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
315.4, 315.5, and 315.6	2	1	2	2,000	4,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: July 16, 2014.

Peter Lurie,

Associate Commissioner for Policy and Planning.

[FR Doc. 2014–17079 Filed 7–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Joint Meeting of the Bone, Reproductive and Urologic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Bone, Reproductive and Urologic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 18, 2014, from 8 a.m. to 1 p.m.

Location: College Park Marriott Hotel and Conference Center, 3501 University Blvd. East, Hyattsville, MD 20783. The hotel's telephone number is 301–985–7300.

Contact Person: Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., WO31–2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *BRUDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the

appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committees will discuss new drug application (NDA) 206089 (oral testosterone undecanoate tablets), submitted by Clarus Therapeutics, for the proposed indication of testosterone replacement therapy in males for conditions associated with a deficiency or absence of endogenous testosterone: Primary hypogonadism (congenital or acquired) and hypogonadotropic hypogonadism (congenital or acquired).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 3, 2014. Oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:45 a.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 25, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 26, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 16, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–17081 Filed 7–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 Allergy and Infectious Diseases Special Emphasis Panel; Synthesis of Therapeutic Agents for Treatment of Infectious Disease.

Date: August 7, 2014.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Room 3119, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Jay Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC–7616 Bethesda, MD 20892, (301) 496–7042, *sundstromj@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (Parent R13/U13).

Date: August 19–22, 2014.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3201 B, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Travis J. Taylor, Ph.D., Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700–B Rockledge Dr., MSC–7616, Bethesda, MD 20892–7616, 301–496–2550, *Travis.Taylor@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 15, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16981 Filed 7–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Exercise Information System (EXIS)

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0057, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on May 1, 2014 (79 FR 24742). EXIS is a web portal designed to serve stakeholders in the transportation industry in regard to security training exercises. EXIS provides stakeholders with transportation security exercise scenarios and objectives, best practices and lessons learned, and a repository of the user's own historical exercise data for use in future exercises. It also allows stakeholders to design their own security exercises based on the unique needs of their specific transportation mode or method of operation. Utilizing

and inputting information into EXIS is completely voluntary.

DATES: Send your comments by August 20, 2014. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Exercise Information System (EXIS).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0057.

Forms(s): N/A.

Affected Public: Transportation System Sector.

Abstract: The Exercise Information System (EXIS) is a voluntary, online tool developed by TSA to support the mission of a program developed and implemented by TSA to fulfill requirements of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (911 Act) [1] and the *Security and Accountability For Every Port Act of 2006.*[2] These statutory programs led to the development of the Intermodal Security Training Exercise Program (I–STEP) for the Transportation Systems Sector (TSS). Within the I–STEP program, EXIS is an interactive resource for the TSS.

Number of Respondents: 12,998 for the next three years.

Estimated Annual Burden Hours: An estimated 6,072 hours annually.

Dated: July 15, 2014.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2014–17129 Filed 7–18–14; 8:45 am]

BILLING CODE 9105–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0067]

Agency Information Collection Activities: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before August 20, 2014 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, 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 should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (79 FR 26771) on May 9, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (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 estimates 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, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.

OMB Number: 1651–0067.

Abstract: CBP is responsible for determining whether imported articles that are classified under Harmonized

[1] Public Law 110–53, 121 Stat. 408 (Aug. 3, 2007).

[2] Public Law 109–347, 120 Stat. 1895–96 (Oct. 13, 2006) (codified at 6 U.S.C. 912).

Tariff Schedule of the United States (HTSUS) subheadings 9801.00.10, 9802.00.20, 9802.00.25, 9802.00.40, 9802.00.50, 9802.00.60 and 9817.00.40 are entitled to duty-free or reduced duty treatment. In order to file under these HTSUS provisions, importers, or their agents, must have the declarations that are provided for in 19 CFR 10.1(a), 10.8(a), 10.9(a) and 10.121 in their possession at the time of entry and submit them to CBP upon request. These declarations enable CBP to ascertain whether the requirements of these HTSUS provisions have been satisfied.

Current Actions: CBP proposes to extend the expiration date of this information collection with no changes to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 19,445.

Estimated Number of Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 58,335.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 933.

Dated: July 16, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–17075 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Cancellation of Customs Brokers' Licenses

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Customs brokers' license cancellations.

SUMMARY: This document provides notice of the cancellation of five (5) customs brokers' licenses without prejudice and the cancellation of one (1) customs broker's license with prejudice.

FOR FURTHER INFORMATION CONTACT: Everett Burns, International Trade Specialist, Broker Management Branch, Office of International Trade, (202) 863–6319.

SUPPLEMENTARY INFORMATION: This document provides notice that, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and § 111.51(a) of title 19 of the Code of Federal Regulations (19 CFR 111.51(a)), the following customs brokers' licenses and any and all associated permits have been canceled without prejudice.

Last/company name	First name	License No.	Port of issuance
Jose Manuel Solis U.S. Customshouse Brokers, Inc.		17280	Laredo.
Jarvis International Freight, Inc.		24029	Houston.
SBS Worldwide, Inc.		23616	Chicago.
Solis	Jose	11977	Laredo.
Harlow	David	05765	Los Angeles.

This document also provides notice that, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and section 111.51(b) of title 19 of the Code of Federal Regulations (19 CFR 111.51(b)), the following customs broker's license and any and all associated permits have been canceled with prejudice.

Company name	License No.	Port of issuance
Houston Becnel, Inc.	13061	Houston.

Dated: July 15, 2014.

Richard F. DiNucci,

Acting Assistant Commissioner, Office of International Trade.

[FR Doc. 2014–17027 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 20, 2014.

DATES: The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on February 20, 2014. The next triennial inspection date will be scheduled for February 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 4717 Santa Elena, Corpus Christi, TX 78405, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
11	Physical property.
12	Calculations.

API Chapters	Title
17	Maritime measurement.

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–02	ASTM D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	ASTM D 4006	Standard test method for water in crude oil by distillation.
27–04	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–05	ASTM D 4928	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27–06	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	ASTM D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–14	ASTM D 2622	Standard Test Method for Sulfur in Petroleum Products (X-Ray Spectrographic Methods).
27–46	ASTM D 5002	Standard test method for density and relative density of crude oils by digital density analyzer.
27–48	ASTM D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	ASTM D 93	Standard test methods for flash point by Pensky-Martens Closed Cup Tester.
27–53	ASTM D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–54	ASTM D 1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
27–58	ASTM D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*.

Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories: *http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf*.

Date: July 8, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–17002 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 8, 2013.

DATES: The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on May 8, 2013. The next triennial inspection date will be scheduled for May 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 804 East North Street, Cushing, OK 74023, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
11	Physical property.
12	Calculations.
17	Maritime measurement.

Intertek USA, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL)

and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–02	ASTM D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	ASTM D 4006	Standard test method for water in crude oil by distillation.
27–04	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–05	ASTM D 4928	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27–06	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–10	ASTM D 323	Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method).
27–11	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–46	ASTM D 5002	Standard test method for density and relative density of crude oils by digital density analyzer.
27–48	ASTM D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	ASTM D 93	Standard test methods for flash point by Pensky-Martens Closed Cup Tester.
27–58	ASTM D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).
N/A	ASTM D 4007	Standard test method for water and sediment in crude oil by the centrifuge method (Laboratory procedure).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories: *http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf*.

Dated: July 11, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–17004 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes for the next three years as of August 15, 2013.

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on August 15, 2013. The next triennial inspection date will be scheduled for August 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 15602 Jacintoport Blvd., Houston, TX 77015, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
5	Metering.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

SGS North America, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–48	ASTM D–4052.	Standard test method for density and relative density of liquids by digital density meter.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Dated: July 14, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–17074 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of SGS North America, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of SGS North America, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of April 14, 2014.

DATES: *Effective Dates:* The approval of SGS North America, Inc., as commercial gauger became effective on April 14, 2014. The next triennial inspection date will be scheduled for April 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that SGS North America, Inc., 100A Corporate Place, Vallejo, CA 94590, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
9	Density Determination.
12	Calculations.
17	Maritime Measurements.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf*

Dated: July 14, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–17073 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Approval of SGS North America, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of SGS North America, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of February 27, 2014.

DATES: The approval of SGS North America, Inc., as commercial gauger became effective on February 27, 2014. The next triennial inspection date will be scheduled for February 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that SGS North America, Inc., 6118 Bayway Drive, Baytown, TX 77520, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.

Dated: July 14, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–17067 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Approval of SGS North America, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of SGS North America, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved

to gauge petroleum and certain petroleum products for customs purposes for the next three years as of October 28, 2013.

DATES: The approval of SGS North America, Inc., as commercial gauger became effective on October 28, 2013. The next triennial inspection date will be scheduled for October 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that SGS North America, Inc., 900B Georgia Ave., Deer Park, TX 77536, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Date: July 14, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–17069 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Inspectorate America Corporation, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Inspectorate America Corporation, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of April 24, 2014.

DATES: The approval of Inspectorate America Corporation, as commercial gauger became effective on April 24, 2014. The next triennial inspection date will be scheduled for April 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Inspectorate America Corporation, 384 North Post Oak Road, Sulfur, LA 70663, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
14	Natural Gas Fluids Measurements.
17	Maritime measurement.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.

Dated: July 11, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–17005 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Omni Hydrocarbon Measurement, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Omni Hydrocarbon Measurement, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Omni Hydrocarbon Measurement, Inc. has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of February 28, 2014.

DATES: The approval of Omni Hydrocarbon Measurement, Inc., as commercial gauger became effective on February 28, 2014. The next triennial inspection date will be scheduled for February 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Omni Hydrocarbon Measurement, Inc., 914 Kennings Avenue, Crosby, TX 77532, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Omni Hydrocarbon Measurement, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API chapters	Title
8	Sampling.
10.9	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Dated: July 8, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–17001 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of Inspectorate America Corporation, as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation of Inspectorate America Corporation, as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 13, 2014.

DATES: The accreditation of Inspectorate America Corporation, as commercial laboratory became effective on May 13, 2014. The next triennial inspection date will be scheduled for May 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that Inspectorate America Corporation, 2184 Jefferson Highway, Lutcher, LA 70071, has been accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12. Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–03	ASTM D 4006	Standard test method for water in crude oil by distillation.
27–05	ASTM D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–11	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–50	ASTM D 93	Standard test methods for flash point by Pensky-Martens Closed Cup Tester.

Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.

Date: July 11, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–17003 Filed 7–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5766–N–02]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Administration under the provisions of the National Housing Act (the Act). The interest rate for debentures issued under section 221(g)(4) of the Act during the 6-month period beginning July 1, 2014, is 2⅜ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning July 1, 2014, is 3¼ percent. However, as a result of an amendment to section 224 of the Act, if an insurance claim relating to a mortgage insured under sections 203 or 234 of the Act and endorsed for insurance after January 23, 2004, is paid in cash, the debenture interest rate for purposes of calculating a claim shall be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years.

FOR FURTHER INFORMATION CONTACT: Yong Sun, Department of Housing and Urban Development, 451 Seventh Street SW., Room 5148, Washington, DC 20410–8000; telephone (202) 402–4778 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (12 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. These regulatory provisions state that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of section 224, that the statutory maximum interest rate for the period beginning July 1, 2014, is 3¼ percent; and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 3¼ percent for the 6-month period beginning July 1, 2014. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with insurance commitment or endorsement date (as applicable) within the latter 6 months of 2014.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1. 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan. 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan. 1, 1993.
7¾	Jan. 1, 1993	July 1, 1993.
7	July 1, 1993	Jan. 1, 1994.
6⅝	Jan. 1, 1994	July 1, 1994.
7¾	July 1, 1994	Jan. 1, 1995.
8⅜	Jan. 1, 1995	July 1, 1995.
7¼	July 1, 1995	Jan. 1, 1996.
6½	Jan. 1, 1996	July 1, 1996.
7¼	July 1, 1996	Jan. 1, 1997.
6¾	Jan. 1, 1997	July 1, 1997.
7⅛	July 1, 1997	Jan. 1, 1998.
6⅜	Jan. 1, 1998	July 1, 1998.
6⅛	July 1, 1998	Jan. 1, 1999.
5½	Jan. 1, 1999	July 1, 1999.
6⅛	July 1, 1999	Jan. 1, 2000.
6½	Jan. 1, 2000	July 1, 2000.
6½	July 1, 2000	Jan. 1, 2001.
6	Jan. 1, 2001	July 1, 2001.
5⅞	July 1, 2001	Jan. 1, 2002.
5¼	Jan. 1, 2002	July 1, 2002.
5¾	July 1, 2002	Jan. 1, 2003.
5	Jan. 1, 2003	July 1, 2003.
4½	July 1, 2003	Jan. 1, 2004.
5⅛	Jan. 1, 2004	July 1, 2004.
5½	July 1, 2004	Jan. 1, 2005.
4⅞	Jan. 1, 2005	July 1, 2005.
4½	July 1, 2005	Jan. 1, 2006.
4⅞	Jan. 1, 2006	July 1, 2006.
5⅜	July 1, 2006	Jan. 1, 2007.
4¾	Jan. 1, 2007	July 1, 2007.
5	July 1, 2007	Jan. 1, 2008.
4½	Jan. 1, 2008	July 1, 2008.
4⅝	July 1, 2008	Jan. 1, 2009.
4⅛	Jan. 1, 2009	July 1, 2009.
4⅛	July 1, 2009	Jan. 1, 2010.
4¼	Jan. 1, 2010	July 1, 2010.
4⅛	July 1, 2010	Jan. 1, 2011.
3⅞	Jan. 1, 2011	July 1, 2011.
4⅛	July 1, 2011	Jan. 1, 2012.
2⅞	Jan. 1, 2012	July 1, 2012.
2¾	July 1, 2012	Jan. 1, 2013.
2½	Jan. 1, 2013	July 1, 2013.
2⅞	July 1, 2013	Jan. 1, 2014.
3⅝	Jan. 1, 2014	July 1, 2014.
3¼	July 1, 2014	Jan. 1, 2015.

Section 215 of Division G, Title II of Public Law 108–199, enacted January 23, 2004 (HUD's 2004 Appropriations Act) amended section 224 of the Act, to change the debenture interest rate for purposes of calculating certain insurance claim payments made in cash. Therefore, for all claims paid in cash on mortgages insured under section 203 or 234 of the National Housing Act and endorsed for insurance after January 23, 2004, the debenture interest rate will be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years, as found in Federal Reserve Statistical Release H–15. The Federal Housing Administration has codified this provision in HUD regulations at 24 CFR 203.405(b) and 24 CFR 203.479(b).

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate" is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the 6-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.255 and 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the 6-month period beginning July 1, 2014, is 2⅜ percent.

The subject matter of this notice falls within the categorical exemption from HUD's environmental clearance procedures set forth in 24 CFR 50.19(c)(6). For that reason, no environmental finding has been prepared for this notice.

(Authority: Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Dated: July 16, 2014.

Laura Marin,

Associate General Deputy Assistant, Secretary for Housing– Associate Deputy, Federal Housing Commissioner.

[FR Doc. 2014–17078 Filed 7–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2014–N118; FXES11120100000–145–FF01E00000]

Draft Candidate Conservation Agreement With Assurances and Receipt of Application for an Enhancement of Survival Permit for the Oregon Spotted Frog; Old Mill District Properties, Deschutes County, Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for an enhancement of survival (EOS) permit under the Endangered Species Act of 1973, as amended (ESA). The permit application includes a proposed candidate conservation agreement with assurances (CCAA) for the Oregon spotted frog addressing conservation and other covered activities at the Old Mill District of the city of Bend in Deschutes County, Oregon. We invite comments from all interested parties on the application, including the CCAA, and an environmental action statement (EAS) prepared pursuant to the requirements of the National Environmental Policy Act (NEPA).

DATES: To ensure consideration, written comments must be received from interested parties no later than August 20, 2014.

ADDRESSES: To request further information or to submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Old Mill CCAA.

- *Internet:* Documents may be viewed on the Internet at *http://www.fws.gov/oregonfwo/ToolsForLandowners/HabitatConservationPlans/.*
- *Email: Jennifer_OReilly@fws.gov.* Include "Old Mill CCAA" in the subject line of the message or comments.
- *U.S. Mail:* U.S. Fish and Wildlife Service, Bend Field Office, 63095 Deschutes Market Road, Bend, OR 97701.
- *Fax:* 541–383–7638. Include "Old Mill CCAA" in the subject line of the message or comments.
- *In-Person Viewing or Pickup:* Documents will be available for public inspection by appointment during normal business hours at the U.S. Fish and Wildlife Service, Bend Field Office, 63095 Deschutes Market Road, Bend, OR 97701.

FOR FURTHER INFORMATION CONTACT: Nancy Gilbert or Jennifer O'Reilly, U.S. Fish and Wildlife Service, Bend Field Office (see **ADDRESSES**), 541–383–7146 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We have received an application from William Smith Properties, Inc.; Fifteen SW Colorado; Mill A Associates Limited Partnership; River Bend Limited Partnership; Mill Shops LLC; Mill Shops Manager LLC Managing Member; River Shops II LLC; Deschutes River Amphitheater LLC; and the River Bend Master Owners Association (collectively, the applicants) for an enhancement of survival permit under the ESA. The permit application includes a CCAA between the applicants and the Service for the Oregon spotted frog (*Rana pretiosa*) in the Old Mill District of the city of Bend in Deschutes County, Oregon. The Service and the applicants prepared the CCAA to provide the applicants with the opportunity to voluntarily conserve the Oregon spotted frog and its habitat while managing commercial real estate properties that the applicants own or manage. We have made a preliminary determination that the proposed CCAA and permit issuance are eligible for a categorical exclusion under NEPA (42 U.S.C. 4371 *et seq.*). The basis for our preliminary determination is contained in an EAS. We invite comments from all interested parties on the application, including the CCAA and the EAS.

Background Information

Private and other non-Federal property owners are encouraged to enter into CCAAs, in which they voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species that are proposed for listing under the ESA, candidates for listing, or species that may become candidates or proposed for listing. Through a CCAA and its associated EOS permit, the Service provides assurances to participating property owners that they will not be subject to increased land use restrictions if the covered species become listed under the ESA in the future, provided the CCAA is being properly implemented and the EOS permit conditions are met. Application requirements and issuance criteria for EOS permits for CCAAs are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). See also our joint policy on CCAAs, which we published in the **Federal Register** with the Department of Commerce's National Oceanic and Atmospheric Administration, National Marine Fisheries Service (64 FR 32726; June 17, 1999), as well as our revisions to that policy (69 FR 24084; May 3, 2004).

On May 7, 1993, the Service published a 12-month finding in the **Federal Register** (58 FR 27260) that the spotted frog (*Rana pretiosa*) warrants listing under the ESA as threatened in some portions of its range, but this listing action was precluded by other higher priority listing actions. Subsequently, genetic analyses separated the spotted frog into two species: *Rana pretiosa* (Oregon spotted frog) and *Rana luteiventris* (Columbia spotted frog). The Service published these taxonomic changes in the **Federal Register** (62 FR 49398) on September 19, 1997. On August 29, 2013, the Oregon spotted frog was proposed for listing as threatened under the ESA (78 FR 53582). A final listing determination is anticipated in late summer of 2014.

In anticipation of a final listing decision by the Service, the applicants requested assistance from the Service in developing a CCAA addressing the needs of the Oregon spotted frog on lands they own in Bend, Oregon. Under the proposed CCAA, the applicants will address threats to the Oregon spotted frog through implementation of conservation measures that are consistent with their land use activities and the CCAA. Through the EOS permit issued pursuant to section 10(a)(1)(A) of the ESA, the applicants would be authorized to incidentally take Oregon spotted frogs in the course of implementing the CCAA if the species becomes listed under the ESA in the future, as long as the terms and conditions of the permit and the CCAA are followed.

Proposed Action

The Service proposes to approve the CCAA and to issue an EOS permit, both with a term of 20 years, to the applicants for incidental take of the Oregon spotted frog caused by covered activities, if permit issuance criteria are met. The area to be addressed under this proposed CCAA (i.e., the covered lands) includes 170 acres of land, including 6,909 linear feet along both banks of the Deschutes River, upstream and downstream of the Colorado Street Bridge, Bend, Deschutes County, Oregon. Portions of the covered lands currently provide habitat that is occupied by Oregon spotted frogs. These specific areas include the Casting Pond, the Les Schwab Amphitheater Marsh, and the riparian habitat on the banks of

the Deschutes River above the ordinary high water mark.

The proposed CCAA is intended to result in benefits to Oregon spotted frogs by reducing or eliminating threats to the species on the covered lands, and creating or maintaining habitat conditions that are suitable for all life-history stages of the species through the implementation of conservation measures. Conservation measures include: Monitoring and maintaining sufficient water levels for the Oregon spotted frog in the Casting Pond through the use of water control devices; periodically removing invasive plants from the Casting Pond to maintain approximately 30 percent aquatic vegetative cover and 70 percent open water; removal of nonnative predators in the Casting Pond should they be discovered during annual surveys; maintaining vegetation along the banks of the Casting Pond to control erosion and potential sedimentation; and protection of the riparian zone along the banks of the Deschutes River within the covered lands through the use of signs and temporary fencing, to address public use that may threaten the integrity of shoreline vegetation that serves as cover for Oregon spotted frogs. Some incidental take of spotted frogs is anticipated with maintenance of the Casting Pond, and with the expansion and construction of stormwater ponds and bioswales that may become temporary habitats.

Consistent with our CCAA Policy (64 FR 32726), the conservation goal of the proposed CCAA is to encourage enhancement and protection of suitable Oregon spotted frog habitat on the covered lands by either maintaining or modifying existing land management so that they are consistent with the conservation needs of the Oregon spotted frog. We can meet this conservation goal with the use of a CCAA by giving non-Federal landowners incentives to implement conservation measures, primarily through regulatory certainty concerning land-use restrictions that might otherwise apply should the Oregon spotted frog become listed under the ESA.

We have made a preliminary determination that the proposed CCAA and permit issuance are eligible for a categorical exclusion under NEPA. The basis for our preliminary determination is contained in an EAS, which is available for public review (see **ADDRESSES**).

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We particularly seek comments on the following: (1) Biological information concerning the Oregon spotted frog; (2) relevant data concerning this species; (3) additional information concerning the range, distribution, population size, and population trends of the Oregon spotted frog; (4) current or planned activities in the covered lands and their possible impacts on the Oregon spotted frog; (5) identification of any other environmental issues that should be considered by the Service with regard to the proposed permit action; and (6) information regarding the adequacy of the CCAA pursuant to the requirements for permits at 50 CFR parts 13 and 17.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comments, you should be aware that your entire comment—including your PII —may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation we used in preparing the EAS, will be available for public inspection by appointment, during normal business hours, at our Bend Field Office (see **ADDRESSES**).

Next Steps

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of section 10(a) of the ESA and NEPA and their implementing regulations. We will also evaluate whether issuance of an EOS permit would comply with section 7 of the ESA by conducting a section 7 consultation on the proposed permit action. If we determine that all requirements are met, we will sign the proposed CCAA and issue an EOS permit under section 10(a)(1)(A) of the ESA to the applicants for incidental take of Oregon spotted frogs that is likely to occur with implementation of the CCAA. We will not make our final decision until after the end of the 30-day public comment period, and we will fully consider all comments we receive during the public comment period.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

Paul Henson,

State Supervisor, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2014–17050 Filed 7–18–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2014–N109; FXRS12650400000S3–123–FF04R02000]

Florida Panther National Wildlife Refuge, Collier County, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent; reopening of public scoping period for a comprehensive conservation plan revision and environmental assessment.

SUMMARY: We, the Fish and Wildlife Service (Service), advise the public that we are reopening the public scoping period for the preparation of a comprehensive conservation plan (CCP) revision and associated National Environmental Policy Act (NEPA) documents for Florida Panther National Wildlife Refuge (NWR), located in Collier County in southwest Florida. If you have previously submitted comments, please do not resubmit them. We have already incorporated them in the public record and will fully consider them in the development of the draft plan.

DATES: To ensure consideration, we must receive your written comments by September 19, 2014. One or more public scoping meetings will be scheduled to help engage the public in this planning process; please contact Florida Panther NWR for the date(s): *FloridaPantherCCP@fws.gov* or 239–353–8442. Information will also be posted on the refuge's Web site: *http://www.fws.gov/floridapanther/.*

ADDRESSES: An online public engagement platform will be used for the engagement of the public and the submission of public comments; to access this forum, please visit: *http://www.fws.gov/floridapanther/ccp.*

FOR FURTHER INFORMATION CONTACT: You may also submit comments, questions, and requests for information to: Cheri

Ehrhardt, AICP, Natural Resource Planner, PO Box 2683, Titusville, FL 32781–2683; *FloridaPantherCCP@fws.gov*; 321–861–1276 (fax); or 321–861–2368.

SUPPLEMENTARY INFORMATION:

Introduction

On April 23, 2014, we published a **Federal Register** notice (79 FR 22697) announcing our intent to initiate our process for developing a CCP revision for Florida Panther NWR in Collier County, Florida and to request comments regarding the development of this CCP revision. We originally opened this comment period from April 23, 2014 to May 23, 2014. For background and more information, please see that notice. We are reopening the public comment period in order to schedule public scoping meetings to enhance the opportunity for comment. This notice complies with our CCP policy to: (1) Advise other Federal and State agencies, Native-American tribes, and the public of our intention to conduct detailed planning on this refuge and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

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.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd et seq.).

Dated: June 17, 2014.

Mike Oetker,

Acting Regional Director.

[FR Doc. 2014–16540 Filed 7–18–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY03000 L13100000.EI0000]

Notice of Intent To Amend the Rawlins Resource Management Plan for the Rawlins Field Office and Prepare an Associated Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM), Rawlins Field Office (RFO), Rawlins, Wyoming, intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) for the RFO and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the RMP amendment with an associated EA. Comments on issues may be submitted in writing until August 20, 2014. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspaper, and the BLM Web site at: *http://www.blm.gov/wy/st/en/programs/Planning/rmps/rawlins/water.html*. In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15-days after the last public meeting, whichever is later. We will provide additional opportunities for public participation, as appropriate.

ADDRESSES: You may submit comments related to the RMP Amendment and associated EA for municipal water source protection by any of the following methods:

- Web site: *http://www.blm.gov/wy/st/en/programs/Planning/rmps/rawlins/water.html*
- Email: *blm_wy_rfo_rmp_water_amend@blm.gov*. Please reference "Rawlins RMP Water Supply Amendment" in the subject line.
- Fax: (307) 328–4224.
- Mail: Bureau of Land Management, Rawlins Field Office, 1300 North Third Street, Rawlins, Wyoming 82301, or P.O. Box 2407, Rawlins, Wyoming 82301–2407.

Documents pertinent to this proposal may be examined at the Rawlins Field Office, 1300 North Third Street, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Jennifer Fleuret, Rawlins Field Office Project Manager, Telephone 307–328–4314; address Bureau of Land Management, Rawlins Field Office, 1300 North Third Street, Rawlins, Wyoming 82301; Email *blm_wy_rfo_rmp_water_amend@blm.gov*. Contact Ms. Fleuret to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Rawlins Field Office, Rawlins, Wyoming, intends to prepare an RMP amendment with an associated EA for the RFO and announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The planning area is located in Carbon and Albany Counties, Wyoming, and encompasses approximately 12,425.34 acres of public land. The analysis of closing this area to oil and gas leasing was not conducted when the Rawlins Field Office RMP was finalized in 2008; therefore, this amendment is necessary to consider management of the BLM administered lands within these municipal water sources. The acreage was determined based on the location of the water sources in relation to BLM surface and sub-surface mineral estate and the extent of the watersheds draining to these sources. Of the 12,425.34 acres, 9,335.42 acres are located approximately 27 miles south of the town of Rawlins; 2,320 acres are located approximately 3.5 miles east of the town of Saratoga, and 769.92 acres are located 11 miles northeast of Laramie. The parcels are located in the following townships:

6th Principal Meridian

T. 16 N., R. 72 W.,
Sec. 4.
T. 16 N., R. 87 W.,
Sec. 6, lots 3 to 8, inclusive, and lots 13 to 15, inclusive.
T. 16 N., R. 88 W.,
Tract 38A;
Tract 38B;
Tract 38C;
Sec. 1, lots 11 to 18 inclusive;
Sec. 2, lots 11 to 27, inclusive;
Sec. 3, lots 11 to 21, inclusive, lots 23 to 26, inclusive, W½SW¼, and E½SE¼;
Sec. 4, lots 11 to 22, inclusive, and S½;
Sec. 5;
Sec. 6, lots 14 to 28, inclusive, and SE¼;
Sec. 9, NE¼;

Sec. 10, lots 1 and 2, E½NE¼, SW¼NE¼, W½NW¼, and SE¼NW¼.
T. 17 N., R. 83 W.,
Sec. 4, S½NW¼ and SW¼;
Sec. 5, S½SE¼ and S½SW¼;
Sec. 8;
Sec. 9;
Sec. 10.
T. 17 N., R. 87 W.,
Sec. 30, lots 1, 2, and 4, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 31.
T. 17 N., R. 88 W.,
Sec. 23, W½NE¼, W½, and SE¼;
Sec. 24, W½NE¼, SE¼NE¼, E½NW¼, S½SW¼, and NE¼SW¼;
Sec. 25, E½, E½NW¼, and E½SW¼;
Sec. 28, W½;
Sec. 29;
Sec. 32;
Sec. 33, W½ and SE¼;
Sec. 34, E½ and SW¼;
Sec. 36, E½SE¼.

The purpose of the scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues have been identified by BLM personnel; Federal, State, and local agencies; and other stakeholders. The issues include potential impacts related to conflicting land uses, including oil and gas development; wind turbine generator placement; and potential socioeconomic issues. The RMP amendment will consider closure of 12,425.34 acres of BLM surface and sub-surface mineral estate to oil and gas leasing due to concerns raised by communities regarding the protection of drinking water sources adjacent to the cities of Rawlins, Saratoga, and Laramie. Opportunities for on-site, regional, and compensatory mitigation strategies would be formulated through discussions with cooperators and other stakeholders. Preliminary planning criteria include:

- Planning decisions will cover BLM-administered public lands;
- Planning decisions will include split-estate lands where the BLM has jurisdiction over the mineral estate;
- The planning process would be collaborative and multi-jurisdictional in nature;
- The environmental analysis will consider a reasonable range of alternatives;
- The BLM will consider current scientific information, research, new technologies, and the results of resource assessments, monitoring, and coordination;
- The BLM will consider current potential future uses of the public lands, through the development of reasonably foreseeable future development and activity scenarios; and
- Decisions in the RMP amendment will comply as appropriate to all applicable laws, regulations, policy, and guidance.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the close of the 30-day scoping period or within 15 days after the last public meeting, whichever is later.

The BLM will use the NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the development of the environmental analysis as a cooperating agency. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. The BLM will evaluate identified issues to be addressed in the plan, and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;
2. Issues to be resolved through policy or administrative action; or
3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the Draft RMP amendment as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach (including, but not limited to, analysis of potential impacts related to hydrology, soils, archaeology, wildlife, minerals, and socioeconomics) to develop the RMP amendment in order to consider the variety of resource issues and concerns identified.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2

Larry Claypool,
Acting State Director.

[FR Doc. 2014–17007 Filed 7–18–14; 8:45 am]
BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L19100000.BJ0000–LRCMP3B00R00]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on August 20, 2014.

DATES: Protests of the survey must be filed before August 20, 2014 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Thomas L. Laakso, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5125 or (406) 896–5007, *tlaakso@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–

800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Regional Director, Rocky Mountain Region, Bureau of Indian Affairs, and was necessary to determine the boundaries of individual and tribal trust lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 33 N., R. 12 W.

The plat, in two sheets, representing the dependent resurvey of Township 33 North, Range 12 West, Principal Meridian, Montana, was accepted May 29, 2014.

We will place a copy of the plat, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Joshua F. Alexander,

Chief, Branch of Cadastral Survey. Division of Energy, Minerals and Realty.

[FR Doc. 2014–17032 Filed 7–18–14; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14X L1109AF LLUT910000.L10200000.XH0000 24–1A]

Call for Nominations for Utah's Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request six public nominations for the Bureau of Land Management (BLM) Utah Resource Advisory Council (RAC) that have members' terms expiring in 2015. The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within Utah. The BLM will accept public nominations for 45 days after the publication of this notice.

DATES: All nominations must be received no later than September 4, 2014.

ADDRESSES: Nominations should be sent to Sherry Foot, Special Programs Coordinator, Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs Coordinator, Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101; phone (801) 539–4195; or email *sfoot@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 leave a message or question for the above individual. The FIRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784 and include the following three membership categories:

Category One (two vacancies)—Holders of Federal grazing permits and representatives of organizations associated with energy and mineral development, timber industry, transportation or rights-of-way, developed outdoor recreation, off-highway vehicle use, and commercial recreation;

Category Two (one vacancy)—Representatives of nationally or regionally recognized environmental organizations, archaeological and historic organizations, dispersed recreation activities, and wild horse and burro organizations; and

Category Three (three vacancies)—Representatives of state, county, or local elected office, employees of a state agency responsible for management of natural resources, representatives of Indian tribes within or adjacent to the area for which the council is organized, representatives of academia who are employed in natural sciences, and the public-at-large.

Individuals may nominate themselves or others. Nominees must be residents of Utah. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision making. The Obama Administration prohibits individuals who are currently federally-registered lobbyists from being appointed or re-appointed to FACA and non-FACA boards, committees, or councils.

The following must accompany all nominations:

—Letters of reference from represented interests or organizations;
—A completed Resource Advisory Council application; and
—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, the BLM-Utah State Office will issue a press release providing additional information for submitting nominations.

(Authority: 43 CFR 1784.4–1)

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–17008 Filed 7–18–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–15166; PPPWOLYMS1–PPMPSPD1Z.YM0000]

Notice of Intent To Prepare Environmental Impact Statement for a Mountain Goat Management Plan, Olympic National Park, Clallam, Grays Harbor, Jefferson and Mason County, Washington

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) for a Mountain Goat Management Plan, in order to provide management direction necessary to address resource stewardship and human safety issues resulting from the presence of non-native mountain goats within Olympic National Park. The Mountain Goat Management Plan will also consider potential impacts to park resources and values including visitor experience,

wilderness character, vegetation, wildlife and habitat, park operations, and cultural resources.

DATES: All comments must be postmarked or transmitted not later than September 19, 2014.

FOR FURTHER INFORMATION CONTACT: Information about the EIS and the scoping process may be obtained by contacting Christina Miller at (360) 565–3004. Information will be available for public review online at *http://parkplanning.nps.gov/olymgoat* and in the office of the Superintendent, Olympic National Park, 600 East Park Ave., Port Angeles, WA 98362.

SUPPLEMENTARY INFORMATION: Management direction is needed to address resource management and human safety issues resulting from the presence of non-native mountain goats in Olympic National Park. The mountain goat is not native to the Olympic Peninsula, having been introduced in the 1920s. By the early 1980s, the goat population in the park grew to over 1,000 individuals. Several hundred goats were removed during the 1980s, reducing the population to less than 400 by 1990. The population was stable at approximately 300 goats from 1994–2004, however it was observed to be increasing at a 5% annual rate in 2011. The original need to manage the goat population was driven by ecological concerns related to the impact of goats on the park's natural resources, particularly sensitive vegetation communities. New concerns were raised in 2010 when a visitor was fatally gored by a mountain goat while hiking on a park trail. The park updated its Mountain Goat Action Plan (part of the Olympic National Park Nuisance and Hazardous Animal Management Plan) in 2011. This plan addresses mountain goat behavior and seeks to minimize the potential for hazardous goat-human encounters. Planning and compliance is needed to address overall management of the mountain goat population within the park.

This effort will result in a plan that provides for the overall management of mountain goats and considers the non-native goats' effects on natural processes and habitats, visitor safety, wilderness, vegetation, wildlife, park operations, cultural resources and other resources. As part of the EIS process, the NPS will evaluate different approaches for managing mountain goats in Olympic National Park. Preliminary alternatives to be considered include no-action, capture and translocation, lethal removal, increased nuisance control and combinations of the above.

How to Provide Scoping Comments: Interested individuals, organizations, and agencies are encouraged to provide comments regarding the scope of issues to be addressed in the EIS, alternative approaches to managing mountain goats in the park, and other concerns regarding this conservation planning and environmental impact analysis process. NPS intends to hold public scoping meetings on the Mountain Goat Management Plan/EIS in the vicinity of the park, including Port Angeles, Seattle, and Olympia during the scoping period. Specific dates, times, and locations will be made available in the local media and on the NPS Planning, Environment and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov/olymgoat*. The scoping meetings will also be announced via a park press release and through email notification to the individuals and organizations on the park's mailing list. Those wishing to be added to the project information distribution list should send an email request to *olym_goats@nps.gov*. The NPS will provide additional opportunities for the public to provide written comments upon publication and release of the Draft EIS.

If you wish to comment during the scoping process, you may use any one of several methods. The preferred method for submitting comments is on the NPS PEPC Web site (see above). You may also mail your comments to Olympic National Park, Attn: Mountain Goat Management Plan, 600 East Park Ave., Port Angeles, WA 98362 or fax them to (360) 565–3015. Written comments will also be accepted during scheduled public meetings. Comments will not be accepted by email, or in any other method than those specified above. Comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. 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.

Decision Process: After the analysis of all responses and information received during the scoping period, a Draft EIS will be prepared. Subsequently, a Final EIS will be prepared after consideration of all comments received. Thereafter, but not sooner than 30 days after the release of the Final EIS, a Record of Decision will be prepared. Because this is a delegated EIS, the official responsible for approval of the Mountain Goat Management Plan/Final EIS is the Regional Director, Pacific West Region. Thereafter, the official responsible for implementation of the approved Mountain Goat Management Plan is the Superintendent, Olympic National Park.

Dated: June 16, 2014.

Christine S. Lehnertz,

Regional Director, Pacific West Region.

[FR Doc. 2014–17077 Filed 7–18–14; 8:45 am]

BILLING CODE 4312–FF–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15975;PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Hamilton County Department of Parks and Recreation, Hamilton County, IN; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Hamilton County Department of Parks and Recreation, a political subdivision of Hamilton County, IN, has corrected an inventory published in a Notice of Inventory Completion in the **Federal Register** on July 30, 2013. This notice corrects the number of associated funerary objects for site 12 H 883. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request to the Hamilton County Department of Parks and Recreation. If no additional requestors come forward, transfer of control of the associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of associated funerary object should submit a written request with information in support of the request to the Hamilton County Department of Parks and Recreation at the address in this notice August 20, 2014.

ADDRESSES: Allen W. Patterson, Superintendent, Hamilton County Department of Parks and Recreation, 15513 S. Union St., Carmel, IN 46033,

telephone (314) 770–4400, email *allen.patterson@hamiltoncounty.in.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory under the control of the Hamilton County Department of Parks and Recreation, Carmel, IN. The associated funerary object was removed from Strawtown Koteewi Park, Hamilton County, IN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (78 FR 45956–45957, July 30, 2013). This correction is being made to include a pot discovered in association with a Native American grave that was discussed at consultation but was not concluded until after the initial publication of the Notice of Inventory Completion cited above. Transfer of control of the item in this correction notice has not occurred.

Correction:

In the **Federal Register** (78 FR 45956–45957, July 30, 2013), paragraph 9, sentence five is corrected by replacing the number 151 with the number 152.

In the **Federal Register** (78 FR 45956–45957, July 30, 2013), paragraph 10, add the following sentence at the end of the paragraph: One associated funerary object, a shell tempered Taylor Village-style vessel, was removed in 2007 from site 12H883, and was reburied without exposing the burial.

In the **Federal Register** (78 FR 45956–45957, July 30, 2013), paragraph 15 is corrected by replacing the number 151 with the number 152.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of this associated funerary object should submit a written request with information in support of the request to Allen W. Patterson, Superintendent, Hamilton County Department of Parks and Recreation, telephone 317–770–4401, email: *allen.patterson@hamiltoncounty.in.gov,* by August 20, 2014. After that date, if no additional requestors have come forward, transfer of control of the associated funerary object to the Delaware Nation, Oklahoma, and the Miami Tribe of Oklahoma may proceed.

The Hamilton County Department of Parks and Recreation is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Delaware Nation, Oklahoma; Eastern Shawnee Tribe of Oklahoma; Miami Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; and the Shawnee Tribe that this notice has been published.

Dated: June 6, 2014.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–17089 Filed 7–18–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–16020; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Indiana University-Purdue University Fort Wayne-Archaeological Survey, Fort Wayne, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Indiana University-Purdue University Fort Wayne-Archaeological Survey (hereafter IPFW–AS) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the IPFW–AS. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the IPFW–AS at the address in this notice by August 20, 2014.

ADDRESSES: Craig R. Arnold, IPFW–AS, 2101 East Coliseum Blvd., Kettler Hall Room G11A, Fort Wayne, IN 46805, telephone (260) 481–6194, email *arnoldc@ipfw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the IPFW–AS, Fort Wayne, IN. The human remains and associated funerary objects were removed from Clark County, IN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the IPFW–AS professional staff in consultation with representatives of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; The Quapaw Tribe of Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 2003 and 2005, human remains representing, at minimum, four individuals were removed from the Prather site (12CL4) in Clark County, IN. The human remains were recovered during excavations administered through the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology. The human remains and associated funerary objects were recovered from an auger probe (2003 excavations) and from archeological test units (2005 excavations). The artifacts were processed in a laboratory at Indiana University. Upon project completion, the artifacts and project documentation were transferred to the IPFW–AS. IPFW–AS is in possession of all artifacts and most project materials associated with the project. No known individuals were identified.

The 367 associated funerary objects from the 2003 excavation at 12CL4

include 1 chert core, 1 charcoal piece, 27 debitage flakes, 284 faunal remain pieces, 21 pieces of natural rock, 32 shell-tempered ceramic sherds, and 1 item classified as unsorted material.

The 3,460 associated funerary objects from the 2005 excavation of Block 1 at 12CL4 include 3 chert cores; 8 charcoal pieces (16.6 grams); 224 daub pieces; 626 debitage flakes; 1 chert drill; 1,088 faunal items; 97 historic artifacts; 347 rocks, pebbles, and fossils; 1 lamellar blade; 1 projectile point; 1,063 ceramic sherds; and 1 lot of 197.4 grams of residue.

The 8,563 associated funerary objects from the 2005 excavation of Block 2 at 12CL4 include 18 chert cores; 12 bifacial chert performs; 1 celt; 2 ceramic objects; 1 ceramic pipe; 2,317 ceramic sherds; 54 charcoal pieces (71.998 grams); 19 chert tools (projectile point, scraper, drill, etc.); 473 daub pieces; 1,332 debitage flakes; 3,988 faunal items; 22 faunal tools; 1 ground stone coal item; 4 historic pieces; 309 pebbles and rocks; 5 red ochre pieces; 2 sandstone slab fragments; and 3 lots of 367.42 grams listed as residue.

The Prather site can almost certainly be assigned a Mississippian classification that dates between A.D. 1050 to 1300.

In 2003, human remains representing, at minimum, three individuals were removed from a midden context at the Clark's Point site (12CL3), in Clark County, IN. The Falls of the Ohio Archaeological Society (FOAS) began to excavate beyond where the IPFW–AS excavation terminated, but halted operations after encountering a potential in situ interment. The initial faunal analysis conducted on a portion of the assemblage identified 41 human elements, or fragments thereof, with a recommendation that the balance of the collection be examined (White 2004, Appendix C). The balance of the faunal material was examined in 2014 and identified an additional 9 human elements, or fragments thereof. Altogether, these remains include two proximal tibia fragments from a fetal individual. There is a proximal tibia element, a rib, and a humerus fragment from an individual estimated to be a juvenile. Some of the cranial elements may also be from this juvenile as the sutures have not yet molded over. No known individuals were identified. The 2,827 associated funerary objects include 14 hafted bifaces; 23 chert bifaces; 53 unifacial chert tools; 57 chert cores; 2,616 chert debitage pieces; 58 worked bone and antler pieces (tools and debris); 1 lot of floral and faunal remains; 1 lot of fire-cracked rock; 1 lot of recent historic items; and 3 lots of 21,215.7 grams of materials that could not be accurately counted were recovered, including carbonized wood, faunal remains, light and heavy fraction, and rock.

In 2008 and 2010, human remains representing, at minimum, four individuals were removed from the Smith-Sutton site (12CL130). Three elements were recovered from contexts unassociated with the interment. These are comprised of a molar (2008), a neonate, and mid-shaft tibia element fragments. The balance of the human remains can be directly associated with the burial in Block 2 that was exposed in 2010. These remains are comprised of a rib fragment and distal phalanges from the feet of the burial. No known individuals were identified.

The 8,682 associated funerary objects from the 2010 excavation of Block 2 include 5,778 ceramic sherds; 1,929 chipped stone artifacts; 913 pieces of fire-cracked rock; 54 pieces of modified fauna; 6 non-chipped stone tools; 1 historic coal or cinder/slag; and 1 lot of 11,473.3 grams of materials that could not be accurately counted were recovered, including burned daub, and floral and faunal remains.

The Smith-Sutton site can almost certainly be assigned a Mississippian classification that dates to approximately A.D. 1440.

Determinations Made by the Indiana University-Purdue University Fort Wayne-Archaeological Survey

Officials of the IPFW–AS have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the provenience, collection histories, and skeletal traits.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of at least 11 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 23,899 objects or lots described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; The Quapaw Tribe of Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; The Quapaw Tribe of Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; The Quapaw Tribe of Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Craig Arnold, Indiana University Purdue University at Fort Wayne-Archaeological Survey, 2101 E Coliseum Blvd., Kettler G11A, Fort Wayne, IN 46805, telephone (260) 481–6194, email *arnoldc@ipfw.edu*, by August 20, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; The Quapaw Tribe of Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The IPFW–AS is responsible for notifying the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; The Quapaw Tribe of Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: June 12, 2014.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–17092 Filed 7–18–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–16019; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Indiana University-Purdue University Fort Wayne-Archaeological Survey, Fort Wayne, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Indiana University-Purdue University Fort Wayne-Archaeological Survey (hereafter IPFW–AS) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the IPFW–AS. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the IPFW–AS at the address in this notice by August 20, 2014.

ADDRESSES: Craig R. Arnold, IPFW–AS, 2101 East Coliseum Blvd., Kettler Hall Room G11A, Fort Wayne, IN 46805, telephone (260) 481–6194, email *arnoldc@ipfw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the IPFW–AS, Fort Wayne, IN. The human remains and associated funerary objects were removed from Allen County, Porter County, St. Joseph County, Whitley County, and other unidentified locations in Indiana.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the IPFW–AS professional staff in consultation with representatives of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In the early 1980s, human remains representing, at minimum, one individual were removed from the Slentz site (12AL10) in Allen County, IN. The human remains were donated to the IPFW–AS in the early 1980s by an avocational archaeologist who removed the remains from the St. Joseph River bank. The human remains were possibly associated with a circular earthwork tentatively identified as the Slentz site (12AL10). The human remains consist of heavily fragmented and burned cranial and femur elements. No known individual was identified. No associated funerary objects are present. Late Woodland ceramic sherds were noted in the adjacent area but there is no indication of a direct association with the remains.

In 1983, human remains representing, at minimum, four individuals (12AL121–01, 02, 03, and 04) were removed from the Fox Island site (12AL121) in Allen County, IN. The human remains were recovered during excavations associated with a field school conducted by IPFW Anthropology staff. The associated funerary objects were processed in the IPFW–AS lab by staff and students. No known individuals were identified. The 2,295 associated funerary objects are 9 bullets, 438 flora, 114 historic contaminants, 244 bones, 353 stone flakes, 30 carbon-14 samples, 76 controlled volumetric soil samples, 41 fire-cracked rock, 78 mollusk shells, 291 ground stones, 493 unmodified rocks, 1 hematite mineral, 1 nutting stone, 2 point fragments, 122 pottery sherds, 1 projectile point, and 1 stone tool.

In 1982, human remains representing, at minimum, six individuals (12AL907–01, 02, 03, 04, 05, and 06) were removed from a Maumee River bank site (12AL907) in Allen County, IN. The human remains were removed by an avocational archeologist and donated to the IPFW–AS in the 1980s. No known individuals were identified. No associated funerary objects are present.

In the 1980s, human remains representing, at minimum, one individual were removed from a Maumee River bank site (12AL1957) in Allen County, IN. The human remains consist of a nearly complete set of skeletal remains (less hand and cranial elements). Notes indicate that the human remains were collected by children and later donated to the IPFW–AS in 1989. No known individual was identified. No associated funerary objects are present.

In 1987, human remains representing, at minimum, one individual were removed from the Shoaff mound site (12AL1362) in Allen County, IN. The human remains consist of a human molar. The mound site was destroyed and IPFW staff screened the disturbed backdirt and spoil piles. Only one tooth and a single flake were recovered from screening operations. This site may be a Glacial Kame mound and it was noted that it had a clay and gravel cap. No known individual was identified. No associated funerary objects are present.

In the late 1980s or early 1990s, human remains representing, at minimum, one individual were removed by workers during construction of a theater building on the IPFW campus. The location of the human remains was near a cemetery of the Indiana School for the Mentally Handicapped. Due to the incomplete and fragmentary nature of the human remains and the close proximity to the St. Joseph River, it is likely the human remains are of Native American ancestry. The human remains consist of a humerus (right), ilium/ischium (right), tibia (left), and parietal (left) elements. No known individual

was identified. No associated funerary objects are present.

In the 1990s, human remains representing, at minimum, one individual were removed during house construction at site 12PR260 near Kouts, Porter County, IN. Notes indicate that approximately one-third of the individual was recovered after being identified and reported to the Indiana Department of Natural Resources. The site was visited by IPFW staff where a feature was identified in the construction wall trench. A radiometric date of A.D. 1490 was determined, but it is not clear what material was used for testing. It was also noted that Huber phase pottery was located on the ground surface near the house construction, but the pottery is not present in the collection. No known individual was identified. No associated funerary objects are present. Based on available information, this burial may be archeologically associated with the Oneota groups of the northwest Indiana area.

In the 1950s, human remains representing, at minimum, four individuals (12PR9999–01–01, 02–01, 03–01, and 04–01) were removed from the Fifield site (12PR9999) in Porter County, IN. The human remains were reportedly collected by an avocational archeologist who identified the site as an Upper Mississippian site, circa A.D. 1350. The human remains were donated to the IPFW–AS in 1990. No known individuals were identified. No associated funerary objects are present.

In 1990, human remains representing, at minimum, one individual were removed from site 12SJ336 located in St. Joseph County, IN. Notes indicate the human remains were recovered from the soil under a fallen tree. The human remains include cranial and vertebral elements and were donated to the IPFW–AS. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from sites 12WI34 and 12WI1562 in Whitley County, IN. The human remains from site 12WI34 were reported to have been found eroding from a lake by an unidentified individual. The human remains from site 12WI1562 were dredged from the Eel River east of Columbia City, IN, and include a left femur. There is no additional information about either site or how the elements came into possession by the IPFW–AS. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum four individuals were removed from unknown sites. These human remains in the IPFW–AS collections have no provenance or additional information, although it is likely they were removed from sites in Indiana. These are listed as items NP–01–01, NP–02–01, NP–03–01, and NP–04–01 and are likely Native American based on skeletal traits. Item NP–01–01 consists of a partial mandible and one tooth. Item NP–02–01 is a fragmented maxilla and partial left zygomatic. Item NP–03–01 is a nearly complete subadult cranial element with nine unattached teeth. Item NP–04–01 is a complete cranial element from a subadult. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Indiana University-Purdue University Fort Wayne-Archaeological Survey

Officials of the IPFW–AS have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the provenience, collection histories, and skeletal traits.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 26 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 2,295 described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Craig Arnold, Indiana University Purdue University at Fort Wayne-Archaeological Survey, 2101 E Coliseum Blvd., Kettler G11A, Fort Wayne, IN 46805, telephone (260) 481–6194, email *arnoldc@ipfw.edu,* by August 20, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The IPFW–AS is responsible for notifying the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: June 12, 2014.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–17091 Filed 7–18–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–16066; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Bureau of Land Management, Green River District, Vernal Field Office, Vernal, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Green River District, Vernal Field Office, Vernal, UT,

has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the BLM, Vernal Field Office. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the BLM, Vernal Field Office, at the address in this notice by August 20, 2014.

ADDRESSES: Michael Stiewig, BLM, Green River District, Vernal Field Office, 170 South 500 East, Vernal, UT 84078, telephone (435) 781–3400, email *mstiewig@blm.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the BLM, Green River District, Vernal Field Office, Vernal, UT. The human remains and associated funerary objects were removed from site 42UN1225, in Uintah County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the BLM, Vernal Field Office, professional staff in consultation with representatives of the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah.

History and Description of the Remains

On March 10 and 11, 1982, human remains representing, at minimum, one individual were removed from site 42UN1255, near Roosevelt, in Uintah County, UT, by Richard Fike and F.R. Hauck, of Archaeological Environmental Research Corporation (AERC), under contract with the BLM, and were assisted by Blaine Phillips and Craig Harmon, BLM archeologists. The site contained a burial, located within a fractured monolith crevice. No known individuals were identified. The majority of the human remains were reinterred on April 27, 1983, by the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah, at Cactus Flat Cemetery, near Ouray, UT.

Between December 2012 and March 2013, an investigation by Vernal Field Office archeologists revealed that additional associated funerary objects and human remains from site 42UN1225 remained under the control of the BLM. A single lot of beads was discovered in a Vernal Field Office storage facility during a routine inventory. Additional associated funerary objects were located at the Utah Field House of Natural History State Park Museum in Vernal, UT, and human bones were discovered with the objects. The human remains include two phalanges, one carpal bone, and one calcified hyoid. The remains have been determined to belong to a Native American male, approximately 27–30 years of age. Based on a non-invasive analysis of the human remains and associated funerary objects, the burial from site 42UN1225 dates from 1850 to 1870.

The 271 associated funerary objects are one small piece of worked juniper wood; two clay tobacco pipe fragments; 40 various individual glass "wound" beads; seven leather cordage fragments; seven minute snail shells; one tan clay rounded ball; one zinc metal crescent; two saddle wooden element fragments; one iron axe bit; one wooden axe handle; eight leather saddle fragments with an iron buckle attached; one iron ring-spade bit; one iron "S"-hook; seven beaded leather fragments; two cloth backed leather fragments; two red stained cotton textile fragments; five leather thong fragments; 42 leather fragments; nine leather strap fragments; 10 unidentified textile fragments; 25 wool textile fragments; 10 buffalo hide fragments; three cotton print textile fragments; two cotton striped shirt fragments; 25 cotton canvas textile fragments; eight cotton textile fragments; five human hair braid fragments; two tooled leather fragments; three cotton denim textile fragments; six lots of glass seed beads; one lot of glass "wound" beads; three strands of glass seed beads; three bunches of human hair; two lots of loose human hair; 14 brass buttons; three brass tacks; two iron nails; two iron rings; and two lots of assorted faunal bone.

Determinations Made by the BLM, Green River District, Vernal Field Office, Vernal, UT

Officials of the BLM, Green River District, Vernal Field Office, Vernal, UT, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 271 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michael Stiewig, BLM, Green River District, Vernal Field Office, 170 South 500 East, Vernal, UT 84078, telephone (435) 781–3400, email *mstiewig@blm.gov*, by August 20, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah, may proceed.

The BLM, Vernal Field Office, is responsible for notifying the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah, that this notice has been published.

Dated: June 18, 2014.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–17094 Filed 7–18–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–16021PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Indiana University-Purdue University Fort Wayne-Archaeological Survey, Fort Wayne, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Indiana University-Purdue University Fort Wayne-Archaeological Survey (hereafter IPFW–AS) has completed an inventory of human remains in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the IPFW–AS. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the IPFW–AS at the address in this notice by August 20, 2014.

ADDRESSES: Craig R. Arnold, IPFW–AS, 2101 East Coliseum Blvd., Kettler Hall Room G11A, Fort Wayne, IN 46805, telephone (260) 481–6194, email *arnoldc@ipfw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the IPFW–AS, Fort Wayne, IN. The human remains were removed from site 11–K–52, Sleepy Hollow, Kane County, IL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the IPFW–AS professional staff in consultation with representatives of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 1984, human remains representing, at minimum, one individual were removed from the Washington Irving site (11K52) in Kane County, IL. The human remains, consisting of the proximal portion of a left tibia, were recovered during excavations by an archeological field school conducted by the Elgin Community College. Information indicates the heavily carnivore-gnawed left tibia element (Catalog No. 11–K–52–01) was recovered from a subsurface pit feature. A conversation with the principal investigator indicates that it was discovered in a refuse filled, or discard, pit feature that also contained Langford-style pottery sherds. A calibrated radiometric date was secured from an unidentified item, which returned a date between A.D. 1250 and 1440. This isolated element came into the custody of the IPFW–AS when the principal investigator became an IPFW–AS employee. The site is now located in a conservation set aside.

Determinations Made by the Indiana University-Purdue University Fort Wayne-Archaeological Survey

Officials of the IPFW–AS have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their recovery from an archeological context of a subsurface pit feature which contained Langford style artifacts and returned a radiometric date consistent with this prehistoric group.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Craig Arnold, Indiana University Purdue University at Fort Wayne-Archaeological Survey, 2101 E Coliseum Blvd., Kettler G11A, Fort Wayne, IN 46805, telephone (260) 481–6194, email *arnoldc@ipfw.edu,* by August 20, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The IPFW–AS is responsible for notifying the Eastern Shawnee Tribe of Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas;

Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: June 12, 2014.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–17093 Filed 7–18–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–DENA–CAKR–ANIA–KOVA–LACL–WRST–GAAR–16085; PPAKAKROR4, PPMPRLE1Y.LS0000]

Meeting Notice; Denali National Park Subsistence Resource Commission, etc.

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: As required by the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), the National Park Service (NPS) is hereby giving notice that the Denali National Park Subsistence Resource Commission (SRC), the Cape Krusenstern National Monument SRC, the Aniakchak National Monument SRC, the Kobuk Valley National Park SRC, the Lake Clark National Park SRC, the Wrangell-St. Elias National Park SRC, and the Gates of the Arctic National Park SRC will hold meetings to develop and continue work on NPS subsistence program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Section 808 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3118), Title VIII.

Denali National Park SRC Meeting Date and Location: The Denali National Park SRC will meet from 9:00 a.m. to 5:00 p.m. or until business is completed on Thursday, August 7, 2014, at the Cantwell Community Library in Cantwell, AK. For more detailed information regarding this meeting, contact Designated Federal Official Donald Striker, Superintendent, at (907) 683–9531, or Amy Craver, Subsistence Manager, at (907) 683–9544, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Denali National Park SRC membership, contact the Superintendent at P.O. Box 9, Denali Park, AK 99755, or visit the park Web site: *http://www.nps.gov/dena/contacts.htm* or *http://www.nps.gov/dena/parkmgmt/subsistence.htm.*

Cape Krusenstern National Monument SRC Meeting Date and Location: The Cape Krusenstern National Monument SRC will meet from 9:00 a.m. to 5:00 p.m. or until business is completed on Wednesday, September 3, 2014, at the Northwest Arctic Heritage Center in Kotzebue, AK. Should a quorum not be available on September 3, 2014, the alternate scheduled meeting date is Wednesday, September 10, 2014, from 9:00 a.m. to 5:00 p.m. at the Northwest Arctic Heritage Center in Kotzebue, AK. For more detailed information regarding this meeting, contact Designated Federal Official Frank Hays, Superintendent, at (907) 442–3890, or Ken Adkisson, Subsistence Manager, at (907) 443–2522, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Cape Krusenstern National Monument SRC membership, contact the Superintendent at P.O. Box 1029, Kotzebue, AK 99752, or visit the park Web site: *http://www.nps.gov/cakr/contacts.htm.*

Aniakchak National Monument SRC Meeting Date and Location: The Aniakchak National Monument SRC will meet from 1:00 p.m. to 5:00 p.m. on Wednesday, September 3, 2014, and on Thursday, September 4, 2014, from 9:00 a.m.to 4:00 p.m. at the Port Heiden Community Hall in Port Heiden, AK. If SRC business is completed on Wednesday, September 3, 2014, the SRC will adjourn the meeting and not meet on Thursday, September 4, 2014. For more detailed information regarding this meeting, contact Designated Federal Official Diane Chung, Superintendent, or Troy Hamon, Resources Team Leader at (907) 246–3305, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Aniakchak National Monument SRC membership, contact the Superintendent at P.O. Box 7, King Salmon, AK 99613, or visit the park Web site: *http://www.nps.gov/ania/contacts.htm.*

Kobuk Valley National Park SRC Meeting Date and Location: The Kobuk Valley National Park SRC will meet from 9:00 a.m. to 5:00 p.m. or until business is completed on Thursday September 4, 2014, at the Northwest Arctic Heritage Center in Kotzebue, AK. Should a quorum not be available on September 4, 2014, the alternate scheduled meeting date is Thursday, September 11, 2014, from 9:00 a.m. to 5:00 p.m. at the Northwest Arctic Heritage Center in Kotzebue, AK. For more detailed information regarding this meeting, contact Designated Federal Official Frank Hays, Superintendent, at (907) 442–3890, or Ken Adkisson, Subsistence Manager, at (907) 443–2522, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Kobuk Valley National Park SRC membership, contact the Superintendent at P.O. Box 1029, Kotzebue, AK 99752, or visit the park Web site: *http://www.nps.gov/kova/contacts.htm.*

Lake Clark National Park SRC Meeting Date and Location: The Lake Clark National Park SRC will meet from 12:30 p.m. to 4:00 p.m. on Tuesday, September 23, 2014, at the Nondalton Community Building in Nondalton, AK. For more detailed information regarding this meeting, contact Designated Federal Official Margaret Goodro, Superintendent, at (907) 644–3626, or Mary McBurney, Subsistence Manager, at (907) 644–3640, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Lake Clark National Park SRC membership, contact the Superintendent at 240 W. 5th Avenue, Anchorage, AK 99501, or visit the park Web site: *http://www.nps.gov/lacl/contacts.htm.*

Wrangell-St. Elias National Park SRC Meeting Date and Location: The Wrangell-St. Elias National Park SRC will meet on Tuesday, October 7, 2014, and Wednesday, October 8, 2014, at the Ahtna Cultural Center in Cooper Center, AK. The SRC will meet from 9:00 a.m. to 5:00 p.m. until business is completed.

Teleconferencing is available upon request. Teleconference participants should contact Barbara Cellarius, Subsistence Manager, via email *barbara_cellarius@nps.gov* or telephone (907) 822–7236, by Thursday, October 2, 2014, to request call-in information. For more detailed information regarding this meeting, contact Designated Federal Official Rick Obernesser, Superintendent, at (907) 822–5234, or Barbara Cellarius, Subsistence Manager, at (907) 822–7236, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Wrangell-St. Elias National Park SRC membership, contact the Superintendent at P.O. Box 439, Copper Center, AK 99753, or visit the park Web site: *http://www.nps.gov.wrst/contacts.htm.*

Gates of the Arctic National Park SRC Meeting Date and Location: The Gates of the Arctic National Park SRC will meet from 9:00 a.m. to 5:00 p.m. on Wednesday, November 12, 2014, and Thursday, November 13, 2014, at the Sophie Station Hotel in Fairbanks, AK. For more detailed information regarding

this meeting, contact Designated Federal Official Greg Dudgeon, Superintendent, or Marcy Okada, Subsistence Manager at (907) 457–5752, or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Gates of the Arctic National Park SRC membership, contact the Superintendent at 4175 Geist Road, Fairbanks, AK 99709 or visit the park Web site: *http://www.nps.gov/gaar/contacts.htm.*

Proposed Meeting Agenda

The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome and Introductions
3. Review and Adoption of Agenda
4. Approval of Minutes
5. Superintendent's Welcome and Review of the Commission Purpose
6. Commission Membership Status and Elections if Needed
7. SRC Chair and Members' Reports
8. Superintendent's Report
9. Old Business
10. New Business
11. Federal Subsistence Board Update
12. Alaska Boards of Fish and Game Update
13. National Park Service Reports
    a. Ranger Update
    b. Resource Management Update
    c. Subsistence Manager's Report
14. Public and Other Agency Comments
15. Work Session
16. Set Tentative Date and Location for Next SRC Meeting
17. Adjourn Meeting

NPS subsistence managers may modify or develop a more detailed agenda for each agenda topic. SRC meeting locations and dates may change based on inclement weather or exceptional circumstances. If the meeting date or location is changed, the Superintendent will issue a press release and use local newspapers and radio stations to provide public notice of any meeting changes.

SUPPLEMENTARY INFORMATION: These meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. The meetings will be recorded and meeting minutes will be available upon request from the Park Superintendent for public inspection approximately six weeks after the meeting. Before including your address, telephone 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 may 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.

Individuals who are currently Federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils.

Dated: July 14, 2014.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2014–17076 Filed 7–18–14; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2014–0029; MMAA104000]

Atlantic Wind Lease Sale 5 (ATLW5) for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore New Jersey—Proposed Sale Notice

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Proposed Sale Notice for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore New Jersey.

SUMMARY: This document is the Proposed Sale Notice (PSN) for the sale of commercial wind energy leases on the Outer Continental Shelf (OCS) offshore New Jersey, pursuant to BOEM's regulations at 30 CFR 585.216. BOEM proposes to offer for sale two leases. The total area comprising the two lease areas is smaller than that described in the Call for Information and Nominations (Call) (77 FR 22130) that was published in April 2011. An explanation for the reduction of the area and detailed information regarding the areas is provided in this notice in the section entitled "Areas Offered for Leasing." BOEM proposes to use a multiple factor auction format for the lease sale. In this PSN, you will find information pertaining to the areas available for leasing, proposed lease provisions and conditions, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. BOEM invites comments on these items during a 60-day comment period following this notice. The issuance of the proposed leases resulting from this sale would not constitute an approval of project-specific plans to develop offshore wind energy. Such plans, expected to be submitted by successful lessees, will be subject to subsequent environmental and public review prior to a decision to proceed with development.

DATES: Comments should be submitted electronically or postmarked no later than September 19, 2014. All comments received or postmarked during the comment period will be made available to the public and considered prior to publication of the Final Sale Notice (FSN).

All bidders interested in participating in the lease sale who have not previously been qualified by BOEM to participate in this lease sale must submit the required qualification materials by the end of the 60-day comment period for this notice. All qualification materials must be postmarked no later than September 19, 2014.

ADDRESSES: Potential auction participants, Federal, state, and local government agencies, tribal governments, and other interested parties are requested to submit their written comments on the PSN in one of the following ways:

1. *Electronically: http://www.regulations.gov.* In the entry entitled, "Enter Keyword or ID," enter BOEM–2014–0029 then click "search." Follow the instructions to submit public comments.

2. *Written Comments:* In written form, delivered by hand or by mail, enclosed in an envelope labeled "Comments on New Jersey PSN" to: Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 381 Elden Street, HM 1328, Herndon, Virginia 20170.

3. *Qualifications Materials:* Those submitting qualifications materials should contact Will Waskes, BOEM Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, (703) 787–1320, or *Will.Waskes@boem.gov.*

If you wish to protect the confidentiality of your comments or qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information with the caption "Contains Confidential Information" and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in the section of this PSN entitled "Protection of Privileged or Confidential Information." Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

FOR FURTHER INFORMATION CONTACT: Will Waskes, BOEM Office of Renewable

Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, (703) 787–1320 or *Will.Waskes@boem.gov*.

Authority: This PSN is published pursuant to subsection 8(p) of the OCS Lands Act (43 U.S.C. 1337(p)) ("the Act"), as amended by section 388 of the Energy Policy Act of 2005 (EPAct), and the implementing regulations at 30 CFR part 585, including 30 CFR 585.211 and 585.216.

Background

Environmental Reviews

On February 3, 2012, BOEM published the Notice of Availability (NOA) (77 FR 5560) for the final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for commercial wind lease issuance and site assessment activities on the Atlantic OCS offshore New Jersey, Delaware, and Virginia, pursuant to the National Environmental Policy Act. Consultations ran concurrently with the preparation of the EA and included consultation under the Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), section 106 of the National Historic Preservation Act (NHPA), and the Coastal Zone Management Act (CZMA). The proposed lease areas identified in this PSN have been reduced from the lease areas described in the Call and the New Jersey Wind Energy Area (WEA) described in the EA. An explanation regarding the reduction in the area is provided in the section entitled "Area Offered for Leasing." The *Commercial Wind Lease Issuance and Site Characterization Activities on the Atlantic Outer Continental Shelf Offshore New Jersey, Delaware, and Virginia Final Environmental Assessment* can be found at: *http://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/Smart_from_the_Start/Mid-Atlantic_Final_EA_012012.pdf*.

On October 19, 2012, BOEM initiated consultation with the National Marine Fisheries Service under the ESA for geological and geophysical (G&G) activities in support of renewable energy development offshore New Jersey, New York, Massachusetts, and Rhode Island. Formal consultation concluded on April 10, 2013, with receipt of a Biological Opinion that, along with the previous informal consultation, informed the development of the New Jersey commercial wind lease package. Additional environmental reviews will be prepared upon receipt of the Lessees' proposed project plans, such as a Site Assessment Plan (SAP) or Construction and Operations Plan (COP).

Other Activities Under BOEM's Jurisdiction

Potential bidders should be aware of an unsolicited request for a right-of-way grant (ROW) under consideration by BOEM, situated within or near the New Jersey WEA and two limited leases issued by BOEM within the New Jersey WEA.

Atlantic Grid Holdings LLC Right-of-Way Grant Request: On March 31, 2011, Atlantic Grid Holdings LLC submitted an unsolicited application for a ROW grant. Following publication of a notice to determine competitive interest in the grant area and a 60-day public comment period, BOEM published a determination of no competitive interest on May 15, 2012 (77 FR 28620). The nomination and associated notices can be found at: *http://www.boem.gov/Renewable-Energy-Program/State-Activities/Regional-Proposals.aspx*. On May 1, 2013, Atlantic Grid Holdings LLC submitted a supplement to their application which can found at the web address above. BOEM anticipates that the New Jersey lease sale will occur prior to a decision regarding the granting of a ROW to Atlantic Grid Holdings LLC, as a result of the required environmental compliance documentation that is still needed. BOEM does not foresee the activities under the ROW grant interfering with Lessee's ability to develop the lease areas.

Interim Policy Leases: On November 1, 2009, BOEM executed two Interim Policy leases within the New Jersey WEA authorizing the construction, installation, and operation of meteorological towers or buoys for a term of five years, to two developers offshore New Jersey. The location of each lease, the name of lease holder and the lease number are listed below.

Lease No.	Lessee	Protraction No.	Block No.	Sub-Block
OCS–A 0472	Deepwater Wind LLC	Wilmington NJ18–02	7033	All
OCS–A 0473	Fishermen's Energy LLC	Wilmington NJ18–02	6931	H,K,L,N,O,P

These leases do not confer a right to develop a commercial offshore wind project. Rather, the leases grant the exclusive right to conduct the activities described in each lease, which are limited to installing and operating facilities to characterize wind and environmental resources. Interim Policy lease holder's rights are preserved until the leases expire on November 1, 2014. Electronic copies of the executed lease can be found at: *http://www.boem.gov/Renewable-Energy-Program/Interim-Policy.aspx*. BOEM anticipates the New Jersey lease sale to occur after the Interim Policy leases have expired.

Deadlines and Milestones for Bidders: This section describes the major deadlines and milestones in the auction process from publication of this PSN to execution of leases pursuant to this sale. These are organized into various stages: (1) The PSN comment period; (2) from end of PSN comment period to publication of the FSN; (3) the FSN waiting period; (4) conducting the Auction; and (5) from the Auction to Lease execution.

1. The PSN Comment Period

- *Submit Comments:* The public is invited to submit comments during this 60-day period.
- *Public Seminar:* BOEM will host a public seminar to discuss the lease sale process and the auction format.
- *Receive Qualifications Materials:* All qualifications materials must be received by BOEM by the end of the 60-day comment period. This includes materials sufficient to establish a company's legal, technical and financial qualifications.
- *Select and Invite Panelist:* BOEM will appoint a panel of three BOEM employees for the purpose of reviewing the non-monetary packages and verifying the results of the lease sale.

2. End of PSN Comment Period to FSN Publication

- *Review Comments:* BOEM will review all comments submitted in response to the PSN during the comment period.
- *Finalize Qualifications Reviews:* BOEM will complete any outstanding qualifications reviews using materials that were submitted during the PSN comment period and requested by BOEM prior to the FSN. The final list of eligible bidders will be published in the FSN.

• *Prepare the FSN:* BOEM will prepare the FSN by updating the PSN where appropriate.

• *Brief and Update the BOEM New Jersey Task Force:* BOEM may schedule a meeting or teleconference of the BOEM New Jersey Intergovernmental Task Force to discuss the FSN.

• *Publish FSN:* BOEM will publish the FSN in the **Federal Register**.

3. FSN Waiting Period

• *Bidders Financial Form (BFF):* No later than 14 days after the publication of the FSN in the **Federal Register**, eligible bidders must submit a complete and signed BFF to BOEM. Once this information has been processed by BOEM, bidders may log into *pay.gov* and leave bid deposits. If BOEM doesn't receive the BFF by the date mentioned in the **Federal Register**, a company may be disqualified from participating in the auction.

• *Bid Deposits:* No later than 30 days after the publication of the FSN in the **Federal Register**, bidders must submit a bid deposit meeting the requirements listed in the FSN. Any bidder that fails to submit the bid deposit by the deadline included in the FSN may be disqualified from participating in the auction.

• *Non-Monetary Package:* No later than 30 days after the publication of the FSN in the **Federal Register**, bidders seeking a non-monetary credit must submit a non-monetary package meeting the requirements listed in the FSN.

• *Mock Auction:* BOEM will hold a Mock Auction open to qualified sale bidders only. The Mock Auction will take place approximately one week before the lease sale. Final details of the Mock Auction will be provided in the FSN.

4. Conduct the Auction: BOEM, through its contractor, will hold an auction as described in this notice. The auction will take place no sooner than 30 days following publication of the FSN in the **Federal Register**. The estimated time frames described in this notice assume an auction date approximately 45 days after publication of the FSN.

• *Convene Panel:* The panel will convene to consider non-monetary packages submitted by qualified bidders. The panel will send determinations of credit eligibility to BOEM, and BOEM will inform eligible bidders. BOEM proposes that bidders will not be informed of the non-monetary credit eligibility of other bidders before the auction.

• *Monetary Auction:* The monetary auction will be conducted on the date specified in the FSN.

• *Announce Provisional Winners:* BOEM will announce the provisional winners of the lease sale after the auction ends.

• *Reconvene the Panel:* The panel will reconvene to verify auction results.

5. From Auction to Lease Execution

• *Refund Non-Winners:* BOEM will return the bid deposit of any bidder that did not win a lease in the lease sale. BOEM will provide a written explanation of why the bidder did not win.

• *Department of Justice (DOJ) Review:* BOEM will allow the Department of Justice (DOJ) 30 days in which to conduct an antitrust review of the auction, pursuant to 43 U.S.C 1337(c), which reads, in relevant part:

Antitrust review of lease sales. Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary [of the Interior] shall allow the Attorney General, in consultation with the Federal Trade Commission, 30 calendar days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

• *Delivery of Leases:* BOEM will send three lease copies to each winner, with instructions on how to execute the leases. The first year's rent is due 45 days after the winner receives the lease copies for execution.

• *Return the Leases:* The auction winners will have 10 business days from receiving the lease copies in which to file financial assurance, pay any outstanding balance of their bonus bids, and return the three executed lease copies.

• *Execution of Leases:* Once BOEM has received the signed lease copies and verified that all required materials have been received, BOEM will make a final determination regarding its execution of the leases and will execute the leases if appropriate.

Financial Terms and Conditions: This section provides an overview of the basic annual payments required of the Lessee that will be fully described in each lease, and the financial assurance requirements that will be associated with each lease.

Rent

The first year's rent payment of $3 per acre for the entire lease area is due within 45 days of the date the Lessee receives the lease for execution. Thereafter, annual rent payments are due on the anniversary of the Effective Date of the lease, i.e., the Lease Anniversary. Once the first commercial operations under the lease begin, rent will be charged on the remaining part of the lease not authorized for Commercial Operations, i.e., not generating electricity. However, instead of geographically dividing the lease area into acreage that is "generating" and acreage that is "non-generating," the fraction of the lease accruing rent is based on the fraction of the total nameplate capacity of the project that is not yet in operation. The fraction is the nameplate capacity (as defined herein), which is not yet authorized for commercial operations at the time payment is due, divided by the maximum nameplate capacity after full installation of the project, as defined in the COP. This fraction is then multiplied by the amount of rent that would be due for the Lessee's entire leased area at the rental rate of $3 per acre to obtain the annual rent due for a given year.

For example, for a lease the size of 343,833 acres (the size of the entire PSN Area), the amount of rent payment will be $1,031,499 per year if no portion of the leased area is authorized for commercial operations. If 500 megawatts (MW) of a project's nameplate capacity is operating (or authorized for operation), and its most recent approved COP specifies a maximum project size of 1000 MW, the rent payment will be $515,750. For the above example, this would be calculated as follows: 500MW/1000MW × ($3/acre × 343,833 acres) = $515,750.

The Lessee also must pay rent for any project easement associated with the lease commencing on the date that BOEM approves the COP (or modification) that describes the project easement. Annual rent for a project easement, 200-feet wide and centered on the transmission cable, is $70.00 per statute mile. For any additional acreage required, the Lessee must also pay the greater of $5.00 per acre per year or $450.00 per year.

Operating Fee

For purposes of calculating the initial annual operating fee payment, an operating fee rate is applied to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first twelve months of operations. This initial payment is prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment is due within 45 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments are due on or before each

Lease Anniversary. The subsequent annual operating fee payments are calculated by multiplying an operating fee rate by the imputed wholesale market value of the projected annual electric power production. For the purposes of this calculation, the imputed market value is the product of the project's annual nameplate capacity, the total number of hours in the year (8,760), capacity utilization factor, and the annual average price of electricity derived from a historical regional wholesale power price index. For example, an annual operating fee for a 100 MW wind facility operating at a 40% capacity with a regional wholesale power price of $40/MWh under an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operting Fee} = 100\text{MW} \times 8{,}760\,\frac{\text{hrs}}{\text{year}} \times 0.4 \times \frac{\$40}{\text{MWh}}\,\text{Power Price} \times 0.02$$

Operating Fee Rate: The operating fee rate is set at 0.02 (i.e., 2%) during the entire life of commercial operations. BOEM requests comments and supporting information on whether BOEM should modify the operating fee rate.

Nameplate Capacity: Nameplate capacity is the maximum rated electric output, expressed in MW, that the turbines of the wind facility under commercial operations can produce at their rated wind speed designated by the turbine's manufacturer. The nameplate capacity at the start of each year of commercial operations on the lease will be specified in the COP. For example, if the Lessee has 20 turbines under commercial operations rated by the design manufacturer at 5 MW of output each, the nameplate capacity of the wind facility at the rated wind speed of the turbines would be 100 MW.

Capacity Factor: The capacity factor relates the amount of energy delivered to the grid during a period of time to the amount of energy the wind facility would have produced at full capacity. There are several reasons why the amount of power delivered is less than the theoretical 100% of capacity. For a wind facility, the capacity factor is mostly determined by the availability of wind. Transmission line loss and down time for maintenance or other purposes also affect the capacity factor.

The capacity factor represents the share of anticipated generation of the wind facility that is delivered to the interconnection grid (i.e., where the Lessee's facility interconnects with the electric grid) relative to the wind facility's generation at continuous full power operation at nameplate capacity, expressed as a decimal between zero and one. The capacity factor for the year in which the Commercial Operation Date occurs and for the first six full years of commercial operations on the lease is set to 0.4 (i.e., 40%) to allow for one year of installation and testing followed by five years at full availability. At the end of the sixth year, the capacity factor may be adjusted to reflect the performance over the previous five years based upon the actual metered electricity generation at the delivery point to the electrical grid. Similar adjustments to the capacity factor may be made once every five years thereafter. The maximum change in the capacity factor from one period to the next will be limited to plus or minus 10 percent of the previous period's value.

Wholesale Power Price Index: The wholesale power price, expressed in dollars per MW hour, is determined at the time each annual operating fee payment is due, based on the weighted average of the inflation-adjusted peak and off-peak spot price indices for the Northwest—PJM West power market for the most recent year of data available as reported by the Federal Energy Regulatory Commission (FERC) as part of its annual *State of the Markets Report* with specific reference to the summary entitled, "Electric Market Overview: Regional Spot Prices." The wholesale power price is adjusted for inflation from the year associated with the published spot price indices to the year in which the operating fee is to be due based on the Lease Anniversary using annual implicit price deflators as reported by the U.S. Department of Commerce Bureau of Economic Analysis.

Financial Assurance

Within 10 business days after receiving the lease copies, the winner must provide an initial lease-specific bond or other approved means of meeting the Lessor's initial financial assurance requirements, in the amount of $100,000. BOEM will base the amount of all SAP, COP, and decommissioning financial assurance requirements on estimates of cost to meet all accrued lease obligations. The amount of supplemental and decommissioning financial assurance requirements will be determined on a case-by-case basis.

The financial terms can be found in Addendum "B" of the proposed leases, which BOEM has made available with this notice on its Web site at: *http://www.boem.gov/State-Activities-New-Jersey/.*

Place and Time: The auction will be held online. The time that the auction will be held will be published in the FSN. The date has not been finalized at this time, but will be no earlier than 30 days after publication of the FSN in the **Federal Register**.

Public Seminar: BOEM will host a public seminar to introduce potential bidders and other stakeholders to the auction format provided in the PSN, explain the auction rules, and demonstrate the auction process. The time and place of the seminar will be announced by BOEM and published on the BOEM Web site at *http://www.boem.gov/State-Activities-New-Jersey/.* No registration or RSVP is required to attend.

Mock Auction: BOEM will host a mock auction to educate qualified bidders about the procedures to be employed during the auction and to answer questions. The mock auction will take place between the publication of the FSN in the **Federal Register** and the date of the auction. Following publication of the FSN in the **Federal Register**, details of the mock auction will be distributed to those eligible to participate in the auction. All qualified bidders that intend to participate in the auction are strongly encouraged to participate in the mock auction. Bidders will be eligible to participate in the mock auction if they have been legally, technically and financially qualified to participate in this lease sale, and have submitted an adequate bid deposit as discussed herein.

Bid Deposit: A bid deposit is an advance cash deposit submitted to BOEM to participate in the auction. No later than the deadline provided in the FSN, each bidder must submit a bid deposit of $450,000 per unit of desired initial eligibility. Each lease is worth one unit of bid eligibility in the auction. The required bid deposit for any participant intending to bid on both leases in the first round of the auction will be $900,000. Any participant intending to bid on only one of the leases during the auction must submit a bid deposit of $450,000. Any bidder that fails to submit the bid deposit by the

deadline described herein may be disqualified from participating in the auction. Bid deposits will be accepted online via *pay.gov*. Following publication of the FSN, each bidder must fill out the Bidder's Financial Form included in the FSN. BOEM has made a copy of the proposed form available with this notice on its Web site at: *http://www.boem.gov/State-Activities-New-Jersey/*. This form requests that each bidder designate an email address that the bidder should use to create an account in *pay.gov*. After establishing the *pay.gov* account, bidders may use the Bid Deposit Form on the *pay.gov* Web site to leave a deposit.

Following the auction, bid deposits will be applied against any bonus bids or other obligations owed to BOEM. If the bid deposit exceeds a bidder's total financial obligation, the balance of the bid deposit will be refunded to the bidder. BOEM will refund bid deposits to unsuccessful bidders.

Minimum Bid: In this auction, approximately 160,480 acres would be offered for sale as Lease OCS–A 0498 and approximately 183,353 acres would be offered for sale as Lease OCS–A 0499. BOEM proposes a minimum bid of $2.00 per acre for this lease sale. Therefore, the minimum acceptable bid will be $320,960 for Lease OCS–A 0498 and $366,706 for Lease OCS–A 0499.

Areas Offered for Leasing: The area available for sale will be auctioned as two leases, Lease OCS–A 0498 [South Lease Area (South LA)] and Lease OCS–A 0499 [North Lease Area (North LA)]. South LA consists of 160,480 acres and North LA consists of 183,353 acres. The total area is approximately 343,833 acres. If there are adequate bids, two leases will be issued pursuant to this lease sale. A description of the lease areas can be found in Addendum "A" of the proposed leases, which BOEM has made available with this notice on its Web site at: *http://www.boem.gov/State-Activities-New-Jersey/*.

A map of the North and South LAs, GIS spatial files, and a table of the boundary coordinates in X, Y (eastings, northings) UTM Zone 18, NAD83 Datum and geographic X, Y (longitude, latitude), NAD83 Datum can be found at the following URL: *http://www.boem.gov/State-Activities-New-Jersey/*.

A large scale map of these areas showing boundaries of the area with numbered blocks is available from BOEM at the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, Phone: (703) 787–1300, Fax: (703) 787–1708.

Delineation of the Leasing Areas

Reduction of Call Area Due to Vessel Traffic Concerns

The area that was published in the Call comprises 62.25 whole OCS blocks encompassing approximately 143,424 hectares (354,407 acres). The area offered for leasing in this PSN has been reduced compared to the area described in the Call notice. The primary reason for this reduction is the navigation concerns raised by the U.S. Coast Guard (USCG) at the December 18, 2012, BOEM New Jersey Renewable Energy Task Force meeting. The USCG presentation provided its analysis of vessel traffic transits through the NJ WEA and described the implication of allowing offshore wind development in the area. The USCG explained that these OCS blocks are located directly south of the Ambrose to Barnegat traffic lane, creating a navigational obstacle. After discussion by the Task Force, BOEM decided that it would be appropriate to remove OCS Blocks Wilmington NJ18–02 Block 6740 and Block 6790 (A, B, C, D, E, F, G, H, I, J, K, M, N) and Block 6840 (A) to alleviate navigational safety concerns resulting from vessel transits out of the New York Harbor. The USCG presentation can be found at: *http://www.boem.gov/Renewable-Energy-Program/State-Activities/USCG.aspx*.

Analysis Conducted by National Renewable Energy Laboratory and Rutgers University

BOEM commissioned the Department of Energy's National Renewable Energy Laboratory (NREL) to conduct an analysis to inform BOEM's identification and delineation of leasing areas within the New Jersey WEA prior to identifying areas to propose for leasing in the PSN. NREL's final report, "Assessment of Offshore Wind Energy Leasing Areas for the BOEM New Jersey Area," was published in October 2013 and is available on the BOEM Web site at: *http://www.boem.gov/State-Activities-New-Jersey/*. In this final report, NREL analyzed development scenarios for the following New Jersey WEA leasing options: Two leasing areas, three leasing areas and four leasing areas.

The New Jersey Board of Public Utilities (NJ BPU) through a contract with Rutgers University's Institute of Marine and Coastal Science conducted a similar analysis to assess the offshore wind potential of the New Jersey Coast. In addition to conducting its analysis at the mesoscale, Rutgers also conducted a microscale analysis which incorporates the unique oceanographic and atmospheric characteristics found offshore New Jersey (i.e., sea breeze, coastal upwelling, coast line orientation, coastal topographic features, coastal storms, etc.). Rutgers' final report, "An Advanced Atmospheric Ocean Assessment Program Designed to Reduce the 'Risks' Associated with Offshore Wind Energy Applications," was completed in April 2013 and is available at: *http://rei.rutgers.edu/index.php?option=com_content&task=view&id=202&Itemid=29*.

Rationale for Proposal To Offer New Jersey WEA as Two Leasing Areas

In 2010, Governor Chris Christie signed the New Jersey Offshore Wind Economic Development Act (OWEDA) N.J.S.A 48:3–87.1, directing the NJ BPU to develop an Offshore Renewable Energy Certificate (OREC) program to require that a percentage of electricity sold in the State be from offshore wind energy. While the percentage was not mandated by OWEDA, at a minimum, the percentage adopted by the NJ BPU must support at least 1,100 MW of generation from "qualified" offshore wind projects. For a project to be qualified, it must pass the "net benefits test" required by OWEDA. Any project application that fails to meet the net benefits test is not eligible to receive an OREC. The codified rules adopted by the NJ BPU (N.J.A.C. 14:8–6) do not specifically dictate how the BPU is to determine whether a particular project meets the "net benefits test." However, it is BOEM's understanding that one of the primary factors affecting the determination will be whether a project is of sufficient size to bring manufacturing, and thus jobs to New Jersey.

BOEM aims to provide an optimal opportunity for each project to be of sufficient size to pass the "net benefits test." Based on input from the State that is supported by feedback from the offshore wind development community, BOEM is of the understanding that an offshore wind project of at least 1,000–1,100 MW would be needed to entice a turbine manufacturer or foundation supplier to set up manufacturing in New Jersey. Based on analysis of wind capacities by NREL and Rutgers University (referenced above), BOEM believes a two lease scenario maximizes the number of leases, consistent with providing lease areas large enough to potentially satisfy the "net benefits test."

BOEM requests comments on these assumptions and the number of lease areas that should be auctioned during

this notice's comment period and will consider all comments received prior to publishing a FSN and holding a sale.

Potential Future Restrictions To Ensure Navigational Safety

Potential bidders should note that all or portions of certain sub-blocks in the North and South LAs may not be available for future development (i.e., installation of wind facilities) because of navigational safety concerns.

At the New Jersey Intergovernmental Task Force on December 18, 2012, the USCG presented an analysis of tug, towing and barge traffic that currently transit through the New Jersey WEA. Their presentation discussed potential safety implications and possible changes in traffic patterns as mariners reroute around the New Jersey WEA once development occurs. The impacts in vessel patterns may require that BOEM mitigate offshore wind development in a portion of the North or South LAs to ensure navigational safety through site-specific stipulations. Any reductions or limitations to the North or South LAs will be determined at the COP stage when the Lessee's site specific navigational risk assessment is available to inform BOEM's decision-making. In particular, USCG has identified the OCS Blocks listed in Table 1 as blocks of highest concern. These blocks represent 6.8% of the South LA.

Maps identifying these blocks and sub-blocks are available on BOEM's Web site at: *http://www.boem.gov/State-Activities-New-Jersey/*. BOEM welcomes comments on navigational safety during this notice's comment period and will consider all comments received prior to publishing a FSN and holding a sale.

TABLE 1—SOUTH LEASING AREA: BLOCKS WITH POTENTIAL RESTRICTIONS

Protraction name	Protraction No.	Block No.	Sub-block
Wilmington	NJ18–02	7080	All Sub-Blocks.
Wilmington	NJ18–02	7030	B,C,D,E,F,G,H,I,J,K,L,M,N,O,P.

Potential Future Restrictions To Minimize Conflicts With Active Undersea Cables

Potential bidders should note that all or portions of certain sub-blocks in the North LA may not be available for future development (i.e., installation of wind facilities) because of the presence of active subsea cables.

The Department of State has provided BOEM with information identifying four active subsea cables that are present in the North LA. The degree to which subsea cables will interfere with offshore wind facility or the associated infrastructure has not been determined at this time. BOEM will determine if any site-specific mitigation is needed at the COP stage when more detailed information and analysis is available to inform BOEM's decision-making. Table 2 lists the sub-blocks where the active cables are present. These sub-blocks represent 6.41% of the North LA. Maps identifying these whole blocks and sub-blocks are available on BOEM's Web site at: *http://www.boem.gov/State-Activities-New-Jersey/*.

BOEM welcomes comments on potential conflicts and mitigation strategies to ensure compatibility between subsea cables and wind facility infrastructure during this notice's comment period and will consider all comments received prior to publishing a FSN and holding a sale.

TABLE 2—NORTH LEASING AREA: BLOCKS WHERE ACTIVE SUBSEA CABLES ARE PRESENT

Protraction name	Protraction No.	Block No.	Sub-block
Wilmington	NJ18–02	6438	O.
Wilmington	NJ18–02	6488	C, D.
Wilmington	NJ18–02	6489	A,B,C,D.
Wilmington	NJ18–02	6588	A,B,C,D,F,G,H.
Wilmington	NJ18–02	6539	I,J,K,M,N,O,P.
Wilmington	NJ18–02	6589	A,B,C,D,E,F,G,H,I,J,K,L.

Withdrawal of Blocks: Interested parties should note that BOEM reserves the right to withdraw areas from this lease sale prior to its execution of a lease based upon comments received in response to this notice and other relevant information provided to the bureau.

Lease Terms and Conditions: The proposed leases contain proposed lease terms, conditions and stipulations for OCS commercial wind leases in the New Jersey PSN Area. BOEM reserves the right to add additional terms and conditions to any approval of a SAP, or COP. The proposed leases, including Addendum "C", are available on BOEM's Web site at: *http://www.boem.gov/State-Activities-New-Jersey/*. Each proposed lease includes the following seven attachments:

- Addendum "A" (Description of Leased Area and Lease Activities);
- Addendum "B" (Lease Term and Financial Schedule);
- Addendum "C" (Lease Specific Terms, Conditions, and Stipulations);
- Addendum "D" (Project Easement);
- Addendum "E" (Rent Schedule);
- Appendix A to Addendum C: (Incident Report: Protected Species Injury or Mortality); and
- Appendix B to Addendum C: (Required Data Elements for Protected Species Observer Reports).

Addenda "A", "B", and "C" provide detailed descriptions of lease terms and conditions. Addenda "D" and "E" will be completed at the time of COP approval or approval with modifications.

After considering comments on the PSN and the proposed leases, BOEM will publish final lease terms and conditions in the FSN.

The most recent version of the lease form is available on BOEM's Web site at: *http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx#Lease_Forms*.

Plans

Pursuant to 30 CFR 585.601, the leaseholder must submit a SAP within 12 months of lease issuance. If the leaseholder intends to continue its commercial lease with an operations term, the leaseholder must submit a

COP at least 6 months before the end of the site assessment term.

Qualifications—Who May Bid: Any potential bidder that has not already submitted a complete set of qualification materials must do so by the end of the 60-day comment period of this PSN. To be eligible to participate in the auction, each potential bidder must have been found by BOEM to be legally, technically and financially qualified under BOEM's regulations at 30 CFR 585.106–107 by the time the FSN for this sale is published. Please note that technical and financial qualifications are lease specific; it is not sufficient to have been technically and financially qualified to pursue a project offshore another state.

Guidance and examples of the appropriate documentation demonstrating the required legal qualifications can be found in Chapter 2 and Appendix B of *Guidelines for the Minerals Management Service Renewable Energy Framework,* available on BOEM's Web site at *http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx.* Guidance regarding how bidders may demonstrate their technical and financial qualifications is provided in *Qualification Guidelines to Acquire and Hold Renewable Energy Leases and Grants and Alternate Use Grants on the U.S. Outer Continental Shelf,* available on BOEM's Web site at: (*http://boem.gov/Renewable-Energy-Program/Regulatory-Information/QualificationGuidelines-pdf.aspx*). BOEM strongly recommends that bidders refer to this guidance before submitting their qualification materials, as the guidance is updated periodically.

Bidders must submit documentation necessary to demonstrate their legal, technical, and financial qualifications to BOEM, in both paper and electronic formats. BOEM considers an Adobe PDF file stored on any electronic media device to be an acceptable format for submitting an electronic copy. In your qualification materials, provide a general description of the project you would like to construct on the lease area sought in this sale, including estimates of the project area and total nameplate capacity of the proposed facilities.

Please note that it may take a number of weeks for you to establish your legal, technical, and financial qualifications. BOEM advises potential bidders planning to participate in a sale to establish their qualifications promptly. It is not uncommon for BOEM to request additional materials establishing qualifications following an initial review of the qualifications package. Any potential bidder whose qualification package is incomplete at the time the FSN for this sale is published in the **Federal Register** will be found to have failed to establish its qualifications and will be unable to participate in the sale.

Auction Procedures

Summary of Auction Format

For the sale of Lease OCS–A 0498 and Lease OCS–A 0499, BOEM will use a multiple-factor auction format, with a multiple-factor bidding system. Under this system, BOEM may consider a combination of monetary and nonmonetary factors, or "variables," in determining the outcome of the auction. BOEM will appoint a panel of three BOEM employees for the purposes of reviewing the non-monetary packages and verifying the results of the lease sale. BOEM reserves the right to change the composition of this panel prior to the date of the lease sale. The panel will determine whether any bidder has earned a non-monetary credit to be used during the auction (i.e., if a bidder holds a Power Purchase Agreement (PPA), or a Qualified Application for a OREC that has been approved or conditionally approved by the NJ BPU as defined herein), and, if one or more bidders has earned such a credit, the percentage the credit will be worth. The auction will balance consideration of two variables: (1) A cash bid, and (2) a non-monetary credit. In sum, these two variables comprise the multi-factor bid or "As-Bid" auction price, as reflected either in a bidder meeting BOEM's asking price or the bidder offering its own Intra-Round Bid prices subject to certain conditions, as described more fully in the following section. A multiple-factor auction, wherein both monetary and nonmonetary bid variables are considered, is provided under BOEM's regulations at 30 CFR §§ 585.220(a)(4) and 585.221(a)(6).

Overview of the Multiple-Factor Bidding Format Proposed for This Sale

Under a multiple-factor bidding format, as set forth at 30 CFR 585.220(a)(4), BOEM may consider a combination of factors as part of a bid. The regulation states that one bid proposal per bidder will be accepted, but does not further specify the procedures to be followed in the multiple-factor format. This multiple-factor format is intended to allow BOEM flexibility in administering the auction and in balancing the variables presented. The regulation leaves to BOEM the determination of how to administer the multiple-factor auction format in order to ensure receipt of a fair return under the Outer Continental Shelf Lands Act, (OCSLA), 43 U.S.C 1337(p)(2)(A).

BOEM's regulations at 30 CFR 585.220(a)(4) allow for a multi-round auction in which each bidder may submit only one proposal per LA or for a set of LAs in each round of the auction. This auction will be conducted in a series of rounds. At the start of each round, BOEM will state an asking price for the North LA and an asking price for the South LA. The asking price for a bid on both LAs is the sum of the asking prices for the North LA and the South LA. Each bidder will indicate whether it is willing to meet the asking price for one or both LAs. A bid submitted at the full asking price for one or both LAs in a particular round is referred to as a "live bid." A bidder must submit a live bid for at least one of the LAs in each round to participate in the next round of the auction. As long as there is at least one LA that is included in two or more live bids, the auction continues, and the next round is held.

A bidder's As-Bid price must meet the asking price for it to be considered a live bid. A bidder may meet the asking price by submitting a monetary bid equal to the asking price, or, if it has earned a credit, by submitting a multiple-factor bid—that is, a live bid that consists of a monetary element and a non-monetary element, the sum of which equals the asking price. A multiple-factor bid would consist of the sum of a cash portion and any credit portion which the bidder has earned.

An uncontested bid is a live bid that does not overlap with other live bids in that round. For example, a bid for both the North and the South LAs is considered contested if any LA included in that bid is included in another bid—a bid cannot be "partially uncontested." An uncontested bid represents the only apparent interest in that bid's LA(s) at the asking price for that round. If a bidder submits an uncontested bid consisting of one LA, and the auction continues for another round, BOEM automatically carries that same live bid forward as a live bid into the next round, and BOEM's asking price for the LA contained in the uncontested bid would remain unchanged from the previous round. If the price on the LA in that bid rises later in the auction because another bidder places a live bid on that LA, BOEM will stop automatically carrying forward the previously uncontested bid. Once the asking price goes up, the bidder that placed the previously carried-forward bid is free to bid on either lease area at the new asking prices.

Following each round in which either LA is contained in more than one live bid, BOEM will raise the asking price for that LA by an increment determined by BOEM. The auction concludes when neither the North LA nor the South LA is included in more than one live bid. The series of rounds and the rising asking prices set by BOEM will facilitate consideration of the first variable—the cash portion of the bid.

The second variable—a credit of up to 25% of a monetary bid for holding a PPA, or a New Jersey OREC Order—will be applied throughout the auction rounds as a form of imputed payment against the asking price for the highest priced LA in a bidder's multiple-factor bid. This credit serves to supplement the amount of a cash bid proposal made by a particular bidder in each round. In the case of a bidder holding a credit and bidding on more than one LA, the credit will be applied only on the LA with the highest asking price. More details on the non-monetary factors are found in the "Credit Factors" section herein.

The panel will evaluate non-monetary packages consisting of any purported PPA, or qualified New Jersey OREC Order, to determine whether it meets the criteria provided in the FSN, and therefore whether it will qualify for a credit for its holder. It is possible that the panel could determine that no bidder qualifies for a non-monetary credit during the auction, in which case the auction would otherwise proceed as described in the FSN. The panel will determine the winning bids for each LA on the basis of the procedures described in the FSN.

Details of the Auction Process

Bidding—Live Bids

Each bidder is allowed to submit a live bid for one LA (North or South), or both LAs based on its "eligibility" at the opening of each round. A bidder's eligibility is either two, one, or zero LAs, and it corresponds to the maximum number of LAs that a bidder may include in a live bid during a single round of the auction. A bidder's initial eligibility is determined based on the amount of the bid deposit submitted by the bidder prior to the auction. To be eligible to offer a bid on one LA at the start of the auction, a bidder must submit a bid deposit of $450,000. To be eligible to offer a bid on both the North and South LAs in the first round of the auction, the bidder must submit a bid deposit of $900,000. A bidder's bid deposit will be used by BOEM as a down payment on any monetary obligations incurred by the bidder should it be awarded a lease.

As the auction proceeds, a bidder's eligibility is determined by the number of LAs included in its live bid submitted in the round prior to the current round. That is, if a bidder submitted a live bid on one LA in the previous round, that bidder may submit a bid that includes at most one LA in the current round. If a bidder submitted a live bid comprised of both LAs in the previous round, that bidder may submit a live bid that also includes these two LAs in the current round. Unless a bidder has an uncontested bid that is carried forward into the next round, a bidder that submitted a live bid for both LAs may choose to submit a live bid for one LA. Thus, eligibility in successive rounds may stay the same or go down, but it can never go up.

In the first round of the auction, bidders have the following options: A bidder with an initial eligibility of one (that is, a bidder who submitted a bid deposit of $450,000) may:

- Submit a live bid on the North LA or the South LA, or
- Submit nothing, and drop out of the auction.

A bidder with an initial eligibility of two (that is, a bidder who submitted a bid deposit of $900,000) may:

- Submit a live bid for both the North and South LAs,
- Submit a live bid for either the North LA or the South LA, or
- Submit nothing, and drop out of the auction.

Before each subsequent round of the auction, BOEM will raise the asking price for any LA that was contained in more than one live bid in the previous round. BOEM will not raise the asking price for a LA that was in only one or no live bids in the previous round.

Asking price increments will be determined by BOEM, in its sole discretion. BOEM will base asking price increments on a number of factors, including:

- Making the increments sufficiently large that the auction will not take an unduly long time to conclude; and
- Decreasing the increments as the asking price of a LA nears its apparent final price.

BOEM reserves the right during the auction to increase or decrease increments if it determines, in its sole discretion, that a different increment is warranted to enhance the efficiency of the auction process. Asking prices for the LAs included in multiple live bids in the previous round will be raised and rounded to the nearest whole dollar amount to obtain the asking prices in the current round.

A bidder must submit a live bid in each round of the auction (or have an uncontested live bid automatically carried forward by BOEM) for it to remain active and continue bidding in future rounds. All of the live bids submitted in any round of the auction will be preserved and considered binding until determination of the winning bids is made. Therefore, the bidders are responsible for payment of the bids they submit and can be held accountable for up to the maximum amount of those bids determined to be winning bids during the final award procedures.

Between rounds, BOEM will release the following information:

- The level of demand for each LA in the previous round of the auction (i.e., the number of live bids that included the LA); and
- The asking price for each LA in the upcoming round of the auction.

In any subsequent round of the auction, if a bidder's previous round bid was uncontested, and the auction continues for another round, then BOEM will automatically carry forward that bid as a live bid in the next round. A bidder whose bid is being carried forward will not have an opportunity to modify or drop its bid until some other bidder submits a live bid that overlaps with the LA in the carried forward bid. In particular, for rounds in which a bidder finds its uncontested bid is carried forward, the bidder will be unable to do the following:

- Switch to the other LA;
- Submit an Intra-Round Bid (see herein for discussion of Intra-Round Bids); or
- Drop out of the auction.

A bidder may be bound by that bid or, indeed, by any other bid which BOEM determines is a winning bid in the award stage. Hence, a bidder cannot drop an uncontested bid. In no scenario can a bidder be relieved of any of its bids from previous or future rounds until a determination is made in the award stage about the LAs won by the bidder.

If a bidder's bid is not being carried forward by BOEM (i.e. a contested bid), a bidder with an eligibility of one (that is, a bidder who submitted a live bid for either the North LA or the South LA in the previous round) may:

- Submit a live bid for either the North LA or the South LA;
- Submit an Intra-Round Bid for the same LA for which the bidder submitted a live bid in the previous round, and exit the auction; or
- Submit nothing, and drop out of the auction.

Additionally, if a bidder's bid is not being carried forward by BOEM (i.e. a

contested bid), a bidder with an eligibility of two (that is, a bidder who submitted a live bid for both North and South in the previous round) may:

- Submit a live bid for both the North and South LAs;
- Submit a live bid for either the North LA or the South LA;
- Submit an Intra-Round Bid for both the North and South LAs, and a live bid for either the North LA or the South LA;
- Submit an Intra-Round Bid for both the North and South LAs, no live bids, and exit the auction; or
- Submit nothing, and drop out of the auction.

Subsequent auction rounds occur in this sale as long as either the North LA or the South LA is contested. The auction concludes at the end of the round in which neither the North LA nor the South LA is included in the live bid of more than one bidder, i.e., all live bids are uncontested.

Bidding—Intra-Round Bids

All asking prices and asking price increments will be determined by the BOEM Auction Manager, in their sole discretion. Intra-round bidding allows bidders to more precisely express the maximum price they are willing to offer for the North, South, or both LAs while also minimizing the chance of ties. An intra-round bid must consist of a single offer price for exactly the same LA(s) included in the bidder's live bid in the previous round.

When submitting an intra-round bid, the bidder is indicating that it is not willing to meet the current round's asking price, but it is willing to pay more than the previous round's asking price. In particular, in an intra-round bid, the bidder specifies the maximum (higher than the previous round's asking price and less than the current round's asking price) that it is willing to offer for the specific LA(s) in its previous round's live bid.

Although an intra-round bid is *not* a live bid, in the round in which a valid intra-round bid is submitted for both LAs, the bidder's eligibility for a live bid in that same round and future rounds is permanently reduced from including two LAs to one LA. In other words, once an intra-round bid is submitted, the bidder will never again have the opportunity to submit a live bid on as many LAs as it has bid in previous rounds.

BOEM will not consider intra-round bids for the purpose of determining whether to increase the asking price for a particular LA or to end the auction. Also, BOEM will not count nor share with bidders between rounds the number of intra-round bids received for each LA.

All of the intra-round bids submitted during the auction will be preserved, and may be determined to be winning bids. Therefore, bidders are responsible for payment of the bids they submit and may be held accountable for up to the maximum amount of any intra-round bids or live bids determined to be winning bids during the final award procedures.

Determining Provisional Winners

After the bidding ends, BOEM will determine the provisionally winning bids in accordance with the process described in this section. This process consists of two stages: Stage 1 and Stage 2, which are described herein. Once the auction itself ends, nothing further is required of bidders within or between Stages 1 and 2. In practice, the stages of the process will take place as part of the solution algorithm for analyzing the monetary and credit portion of the bids, determining provisional winners, finding the LAs won by the provisional winners, and calculating the applicable bid prices to be paid by the winners for the LAs they won. This evaluation will be reviewed, checked, and validated by the panel. The determination of provisional winners, in both stages, will be based on the two auction variables, as well as on a bidder's adherence to the rules of the auction, and the absence of conduct detrimental to the integrity of the competitive auction.

- Stage 1

Live bids submitted in the final round of the auction are Qualified Bids. In Stage 1, a bidder with a Qualified Bid is provisionally assured of winning the LA(s) included in its final round bid, regardless of any other prior-to-final round live bids or Intra-Round Bids in any round. If both LAs are awarded to bidders in Stage 1, the second award stage is not necessary. If the North LA or the South LA received a bid but was not awarded in Stage 1 because no live bids were received in the final round of the auction, BOEM will proceed to Stage 2 to award the leases.

Following the auction, all winning bidders must pay the price associated with their winning bids, which may consist of cash and non-monetary credits or just cash.

- Stage 2

All bids are either Qualified Bids or Contingent Bids. Contingent bids are all live bids received before the final round, and any Intra-Round Bids received during the auction. In Stage 2, BOEM will consider Contingent Bids to see if the unawarded LA(s) can be awarded without interfering with Stage 1 awards. BOEM will award leases in Stage 2 to the bid(s) that maximize(s) the total As-Bid prices.

Any Contingent Bids that conflict with Qualified Bids will not be considered. There is one notable exception to this rule. This exception allows BOEM to accept a Contingent Bid for both LAs notwithstanding the existence of a Qualified Bid for one LA by the same bidder, provided the acceptance of the Contingent Bid for both LAs results in higher overall As-Bid prices than acceptance of only the Qualified Bid for a single LA.

In this scenario, a bidder would be awarded both LAs and would be required to pay its Intra-Round Bid price associated with its Intra-Round Bid for both LAs, even though it submitted a Qualified Bid that assured it of winning only one of the LAs.

This exception represents the only situation in which BOEM will consider for award a Contingent Bid which overlaps a Qualified Bid. In contrast, there is no situation in which one bidder's Contingent Bid will be considered for award if it overlaps with any LA that is included in another bidder's Qualified Bid.

Under certain circumstances, different combinations of contingent bids may result in the same total As-Bid price. In such cases, BOEM will resolve the resulting tie with a random drawing.

In the event a bidder submits a bid for a LA that the panel and BOEM determine to be a winning bid, the bidder will be expected to sign the applicable lease documents in a timely manner and submit the full cash payment due, pursuant to 30 CFR 585.224. If a bidder fails to timely sign and pay for the lease, then BOEM will not issue the lease to that bidder, and the bidder will forfeit its bid deposit. BOEM may consider failure of a bidder to timely pay the full amount due an indication that the bidder is no longer financially qualified to participate in other lease sales under BOEM's regulations at 30 CFR 585.106 and 585.107.

Credit Factors

Prior to the auction, BOEM will convene a panel (pursuant to 30 CFR 585.222(d)) to evaluate whether and to what extent each bidder is eligible for a credit applicable to the As-Bid auction price for one of the LAs in each round of the auction, as described below. In order to receive the PPA or New Jersey OREC credit a bidder must be legally, technically, and financially qualified to acquire a commercial OCS wind lease, and must not be affiliated with any

other bidding entity also seeking credit for the same PPA or qualified application for a New Jersey OREC that has been approved or conditionally approved by the New Jersey Board of Public Utilities. Any single PPA or OREC cannot be used by more than one bidder in the auction.

The percentage credit that will be applicable to each bidder throughout the auction and award process is determined based on the panel's evaluation of required documentation submitted by the bidders as of the deadline specified in the FSN. Bidders will be informed by email before the monetary auction about the percentage credit applicable to their bids. A bidder may not receive more than one bid credit, and the bid credit will be applicable to only one LA. Any non-monetary credit would only be applicable to the higher priced LA in a bid for both LAs. For an Intra-Round Bid containing both LAs, the higher priced LA will be determined using the previous round's asking prices. In each round, the auction system will display to each bidder, information showing how their As-Bid auction prices are affected by the credit imputed to their bid to determine their net monetary payment due to BOEM, should their bids prevail as winning bids in the award stages. Application of the credit percentage to the appropriate As-Bid auction price will be rounded to the nearest whole dollar amount.

The bidder's credit percentage is limited to 25% for a New Jersey OREC Order, or 25% for a PPA (for at least 250 MW). If a bidder is eligible for two credits, BOEM will only apply one credit in the auction. This credit percentage will be applied to the highest priced LA related to the bidder's latest live bid or Intra-Round Bid. In the case of an Intra-Round Bid for both LAs, the credit will apply only to the higher priced LA, but the applicable price for calculating the credit will be based on the previous round's asking prices, not on any additional amount above the previous round's asking prices as reflected in the incremental amount associated with its Intra-Round Bid.

The panel will review the non-monetary package submitted by each bidder, and based on the criteria of a PPA, or New Jersey OREC Order, as provided in the FSN, determine whether bidders have established that they are qualified to receive a credit, and the percentage at which that credit will apply. If the panel determines that no bidder has qualified for a non-monetary factor, the auction will proceed with each bidder registered with no imputed credit.

Credit Factor Definitions

The definitions below will apply to the factors for which bidders may earn a credit.

Power purchase agreement (PPA) is any legally enforceable contract negotiated between an electricity generator (Generator) and a power purchaser (Buyer) that identifies, defines, and stipulates the rights and obligations of one party to produce, and the other party to purchase, energy from an offshore wind project to be located in the lease sale area. The PPA must have been approved by a public utility commission or the equivalent. The PPA must state that the Generator will sell to the Buyer and the Buyer will buy from the Generator capacity, energy, and/or environmental attribute products from the project, as defined in the terms and conditions set forth in the PPA. Energy products to be supplied by the Generator and the details of the firm cost recovery mechanism approved by the State's public utility commission or other applicable authority used to recover expenditures incurred as a result of the PPA must be specified in the PPA. To qualify, a PPA must contain the following terms or supporting documentation:

(i) A complete description of the proposed project;

(ii) Identification of both the electricity Generator and Buyer that will enter into a long term contract;

(iii) A timeline for permitting, licensing, and construction;

(iv) Pricing projected under the long term contract being sought, including prices for all market products that would be sold under the proposed long term contract;

(v) A schedule of quantities of each product to be delivered and projected electrical energy production profiles;

(vi) The term for the long term contract;

(vii) Citations to all filings related to the PPA that have been made with state and Federal agencies, and identification of all such filings that are necessary to be made; and

(viii) Copies of or citations to interconnection filings related to the PPA.

If the panel determines a bidder has executed a PPA for at least 250MW, it will be eligible for the entire 25% credit. If the panel determines a bidder has executed a PPA for an amount less than 250MW, the bidder may still be eligible for a non-monetary credit proportional to the PPA's fraction of 250MW. The smaller percentage for a partial credit will be calculated according to the following formula:

$$\text{Partial Credit} = \frac{(\text{Full Credit} * \text{Partial PPA})}{\text{Full PPA}}$$

Where:

- Partial Credit = Percent credit for which a smaller PPA is eligible.
- Full PPA = 250 MW
- Full Credit = 25%
- Partial PPA = amount (less than 250 MW) of power under contract

New Jersey OREC Order is a qualified application for an OREC that has been approved or conditionally approved by the NJ BPU.

Where:

- An *Offshore Renewable Energy Certificate (OREC)* is a certificate issued by the NJ BPU or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project.
- A *qualified offshore wind project* is a wind turbine electric generation facility in the Atlantic Ocean and connected to the electrical transmission systems in New Jersey, and includes the associated transmission-related interconnection facilities and equipment.

Additional Information Regarding the Auction Format

Non-Monetary Auction Procedures

All bidders seeking a non-monetary auction credit will be required to submit a non-monetary auction package prior to the auction. Instructions and deadlines for submittal will be provided in the FSN. If a bidder does not submit a non-monetary package by the date specified in the FSN, then BOEM will assume that bidder is not seeking a non-monetary auction credit and the panel will not consider that bidder for a non-monetary auction credit.

Bidder Authentication

Prior to the auction, the Auction Manager will send several bidder authentication packages to each bidder

shortly after BOEM has processed the BFFs. One package will contain tokens for each authorized individual. Tokens are digital authentication devices. The tokens will be mailed to the Primary Point of Contact indicated on the BFF. This individual is responsible for distributing the tokens to the individuals authorized to bid for that company. *Bidders are to ensure that each token is returned within three business days following the auction.* An addressed, stamped envelope will be provided to facilitate this process. In the event that a bidder fails to submit a BFF or a bid deposit, or does not participate in the auction, BOEM will de-activate that bidder's token and login information, and the bidder will be asked to return its tokens.

The second package contains login credentials for authorized bidders. The login credentials will be mailed to the address provided in the BFF for each authorized individual. Bidders can confirm these addresses by calling 703–787–1320. This package will contain user login information and instructions for accessing the Auction System Technical Supplement and Alternative Bidding Form. The login information, along with the tokens, will be tested during the Mock Auction.

Monetary Auction Times

Specific information regarding when bidder can enter the auction system and the auction start time will be provided in the FSN. Additional information will be made available in an Auction System Technical Supplement which will be posted on BOEM's Web site prior to the auction.

BOEM and the auction contractors will use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM may change the schedule at any time, including during the auction. If BOEM changes the schedule during the auction, it will use the messaging feature to notify bidders that a revision has been made, and direct bidders to the relevant page. BOEM will also use the messaging system for other changes and items of particular note during the auction. The auction schedule and asking price increments are in BOEM's discretion, and are subject to change at any time before or during the auction.

During the auction, bidders may place bids at any time during the round. At the top of the bidding page, a countdown clock will show how much time remains in the round. Bidders have until the scheduled time to place bids. Bidders should do so according to the procedures described in the Auction System Technical Supplement, and as practiced at the Mock Auction. No information about the round is available until the round has closed and results have been posted, so there should be no strategic advantage to placing bids early or late in the round.

Alternate Bidding Procedures

Any bidder who is unable to place a bid using the online auction and would be interested in placing a bid using the alternative bidding procedures must call the BOEM Auction Manager at the help desk number that is listed in the Auction System Technical Supplement *before* the end of the round. BOEM will authenticate the caller to ensure he/she is authorized to bid on behalf of the company. The bidder must explain to the BOEM Auction Manager the reasons for which he/she is forced to place a bid using the Alternative Bidding Procedure. BOEM may, in its sole discretion, permit or refuse to accept a request for the placement of a bid using the Alternative Bidding Procedure. The Alternative Bidding Procedure enables a bidder who is having difficulties accessing the Internet to submit its bid via an Alternative Bidding Form that must be faxed to the auction manager. If the bidder has not placed a bid, but calls BOEM before the end of the round and notifies BOEM that it is preparing a bid using the Alternate Bidding Procedure, and submits the Alternate Bidding Form by fax before the round ends, BOEM will likely accept the bid, though acceptance or rejection of the bid is within BOEM's sole discretion. If the bidder calls during the round, but does not submit the bid until after the round ends (but before the round is posted), BOEM may or may not accept the bid, in part based on how much time remains in the recess. *Bidders are strongly encouraged to submit the Alternative Bidding Form before the round ends.* If the bidder calls during the recess following the round, but before the previous round's results have been posted, BOEM will likely reject that bid, even if the bidder has otherwise complied with all of BOEM's Alternate Bidding Procedures. If the bidder calls to enter a bid after results have been posted, BOEM will reject the bid.

Except for bidders who have uncontested bids in the current round, failure to place a bid during a round will be interpreted as dropping out of the auction. Bids in all rounds are preserved for consideration in Stage 2 of the award process. Bidders are held accountable for all bids placed during the auction. This is true if they continued bidding in the last round, if they placed an Intra-Round Bid for a single LA in an earlier round, or if they stopped bidding during the auction.

Acceptance, Rejection or Return of Bids: BOEM reserves the right and authority to reject any and all bids. In any case, no leases will be awarded to any bidders and no bids will be accepted, unless (1) the bidder has complied with all requirements of the FSN, applicable regulations and statutes, including, among others, those related to, bidder qualifications, bid deposits, and adherence to the integrity of the competitive bidding process, (2) the bid conforms with the requirements and rules of the auction, and (3) the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted that does not satisfy these requirements may be returned to the bidder by the Program Manager of BOEM's Office of Renewable Energy Programs and not considered for acceptance.

Process for Issuing the Leases: If BOEM proceeds with issuing the leases, it will issue three unsigned copies of the lease form to the winning bidders. Within 10 business days after receiving the lease copies, a winning bidder must:

1. Execute the lease on the bidder's behalf;

2. File financial assurance as required under 30 CFR 585.515–537; and

3. Pay by electronic funds transfer (EFT) the balance of the bonus bid (bid amount less the bid deposit). BOEM requires bidders to use EFT procedures (not to include *pay.gov*) for payment of the balance of the bonus bid, following the detailed instructions contained in the "Instructions for Making Electronic Payments" available on BOEM's Web site at: *http://www.boem.gov/State-Activities-New-Jersey/.*

If a winning bidder does not meet these three requirements within 10 business days of receiving the lease copies as described above, or if a winning bidder otherwise fails to comply with applicable regulations or the terms of the FSN, the winning bidder will forfeit its bid deposit. BOEM may extend this 10 business-day time period if it determines the delay was caused by events beyond the winning bidder's control.

In the event that the winner does not execute and return the leases according to the instructions in the FSN, BOEM reserves the right to reconvene the panel to determine whether it is possible to identify a bid that would have won in the absence of the bid previously determined to be the winning bid. In the event that a new winning bid is selected by the panel, BOEM will follow the

procedures in this section for the new winner(s).

BOEM will not execute a lease until (1) the three requirements above have been satisfied, (2) BOEM has accepted the winning bidder's financial assurance, and (3) BOEM has processed the winning bidder's payment. The winning bidder may meet financial assurance requirements by posting a surety bond or by setting up an escrow account with a trust agreement giving BOEM the right to withdraw the money held in the account on demand by BOEM. BOEM may accept other forms of financial assurance on a case-by-case basis in accordance with its regulations. BOEM encourages provisionally winning bidders to discuss the financial assurance requirement with BOEM as soon as possible after the auction has concluded.

Within 45 days of the date that the Lessee receives the lease copies, the Lessee must pay the first year's rent using the *pay.gov* Renewable Energy Initial Rental Payment form available at: *https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=27797604.*

Anti-Competitive Behavior: In addition to the auction rules described in this notice, bidding behavior is governed by Federal antitrust laws designed to prevent anticompetitive behavior in the marketplace. Compliance with BOEM's auction procedures will not insulate a party from enforcement of antitrust laws.

In accordance with the Act at 43 U.S.C. 1337(c), following the auction, and before the acceptance of bids and the issuance of leases, BOEM will "allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of the lease sale." If a bidder is found to have engaged in anti-competitive behavior or otherwise violated BOEM's rules in connection with its participation in the competitive bidding process, BOEM may reject the high bid.

Anti-competitive behavior determinations are fact specific. However, such behavior may manifest itself in several different ways, including, but not limited to:

- An agreement, either express or tacit, among bidders to not bid in an auction, or to bid a particular price;
- An agreement among bidders not to bid for a particular Lease Area;
- An agreement among bidders not to bid against each other; and
- Other agreements among bidders that have the effect of limiting the final auction price.

BOEM may decline to award a lease if, pursuant to the Act (43 U.S.C. 1337(c)), it is determined by the Attorney General in consultation with the Federal Trade Commission doing so would be inconsistent with the antitrust laws (e.g., heavily concentrated market, etc.).

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see: *http://www.justice.gov/atr/public/business-resources.html,* or consult counsel.

Bidder's Financial Form Certification: Each bidder is required to sign the self-certification, in accordance with 18 U.S.C. 1001 (Fraud and False Statements) in the Bidder's Financial Form, which can be found on BOEM's Web site at: *http://www.boem.gov/State-Activities-New-Jersey/.* The form must be filled out and returned to BOEM in accordance with the "Deadlines and Milestones for Bidders" section of this notice.

Non-Procurement Debarment and Suspension Regulations: Pursuant to regulations at 43 CFR part 42, Subpart C, an OCS renewable energy Lessee must comply with the U.S. Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR 180 and 1400 and agree to communicate the requirement to comply with these regulations to persons with whom the Lessee does business as it relates to this lease by including this term as a condition in their contracts and other transactions.

Final Sale Notice: BOEM will consider comments received or postmarked during the PSN comment period in preparing a FSN that will provide the final details concerning the offering and issuance of OCS commercial wind energy leases in the New Jersey sale areas. The FSN will be published in the **Federal Register** at least 30 days before the lease sale is conducted and will provide the date and time of the auction.

Force Majeure: The Program Manager of BOEM's Office of Renewable Energy Programs has the discretion to change any date, time, and/or location specified in the FSN in case of a force majeure event that the Program Manager deems may interfere with a fair and proper lease sale process. Such events may include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, and floods), wars, riots, acts of terrorism, fire, strikes, civil disorder or other events of a similar nature. In case of such events, bidders should call 703–787–1300 or access the BOEM Web site at: *http://www.boem.gov/Renewable-Energy-Program/index.aspx.*

Appeals: The appeals procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). Pursuant to 30 CFR 585.225:

(a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons and refund any money deposited with your bid, without interest.

(b) You will then be able to ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under 30 CFR 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

The procedures for appealing final decisions with respect to lease sales are described in 30 CFR 585.118(c).

Protection of Privileged or Confidential Information

BOEM will protect privileged or confidential information that you submit as required by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that you submit that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly mark it and request that BOEM treat it as confidential. BOEM will not disclose such information, except as required by FOIA. Please label privileged or confidential information "Contains Confidential Information" and consider submitting such information as a separate attachment.

However, BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such information. Additionally, BOEM may not treat as confidential the legal title of the commenting entity (e.g., the name of your company). Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

Section 304 of the National Historic Preservation Act (16 U.S.C. § 470w–3(a))

BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

Dated: June 9, 2014.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2014–16864 Filed 7–18–14; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Amended Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received an amended complaint entitled *Certain Light Reflectors and Components, Packaging, and Related Advertising Thereof, DN 3019;* the Commission is soliciting comments on any public interest issues raised by the amended complaint or complainants' filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the amended complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS*[1], and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *USITC.*[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *EDIS*[3]. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received an amended complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Sunlight Supply, Inc., and IP Holdings, LLC on June 20, 2014. The amended complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light reflectors and components, packaging, and related advertising thereof. The amended complaint names as respondents Sinowell (Shanghai) Co., Ltd. of China; Sinohydro Ltd. of China; Groco Enterprises, LLC of Bellevue, WA; Good Nature Garden Supply of Sacramento, CA; Aqua Serene, Inc. of Eugene, OR; Aurora Innovations, Inc. of Eugene, OR; Big Daddy Garden Supply, Inc. of Ukiah, CA; Bizright, LLC of City of Industry, CA; Coinstar Procurement, LLC of Bellevue, WA; The Hydro Source II, Inc. of Santa Fe Springs, CA; Insun, LLC of Bellevue, WA; Lumz' N. Blooms, Ltd. Corp. of Apopka, FL; Parlux LP of Snohomish, WA; Silversun, Inc. of Gig Harbor, WA; and Zimbali Group, Inc. of Bellevue, WA. The complainants request that the Commission issue a general exclusion order, or in the alternative, a limited exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the amended complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainants in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainants, their licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainants, complainants' licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3019") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures*[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*[5].

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: July 15, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–16980 Filed 7–18–14; 8:45 am]

BILLING CODE 7020–02–P

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: September 29–30, 2014.

TIME: 8:00 a.m. to 5:00 p.m.

ADDRESSES: United States District Court, Hollings Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Secretary and Chief Rules Officer, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 16, 2014.

Jonathan C. Rose,

Secretary and Chief Rules Officer.

[FR Doc. 2014–17105 Filed 7–18–14; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, July 23, 2014.

PLACE: U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: Approval of April 17, 2014 minutes; reports from the Vice Chairman, the Commissioners, and senior staff; Final Rule voting on 28 CFR Part 2; Proposed Amendment to 28 CFR 2.66.

CONTACT PERSON FOR MORE INFORMATION: Jacqueline Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC 20530, (202) 346–7001.

Dated: July 16, 2014.

Cranston Mitchell,

Vice Chairman, U.S. Parole Commission.

[FR Doc. 2014–17119 Filed 7–17–14; 11:15 am]

BILLING CODE 4410–31–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

TIME AND DATE: 12:00 p.m., Wednesday, July 23, 2014.

PLACE: U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC

STATUS: Closed.

MATTERS TO BE CONSIDERED: Determination on one original jurisdiction case.

CONTACT PERSON FOR MORE INFORMATION: Jacqueline Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC 20530, (202) 346–7001.

Dated: July 16, 2014.

Cranston Mitchell,

Vice Chairman, U.S. Parole Commission.

[FR Doc. 2014–17115 Filed 7–17–14; 11:15 am]

BILLING CODE 4410–31–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: The National Endowment for the Humanities (NEH) will hold seventeen meetings of the Humanities Panel, a federal advisory committee, during August, 2014, as follows. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at Constitution Center, 400 7th Street SW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* August 01, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P002
   This meeting will discuss applications on the subject of Religious Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.
2. *Date:* August 04, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P002
   This meeting will discuss applications on the subjects of American History and Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.
3. *Date:* August 04, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P003
   This meeting will discuss applications on the subjects of Romance Literature and Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.
4. *Date:* August 05, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P002
   This meeting will discuss applications on the subjects of Anthropology and New World Archeology for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.
5. *Date:* August 05, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P003
   This meeting will discuss applications on the subject of American Literature for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.
6. *Date:* August 06, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P002
   This meeting will discuss applications on the subject of East Asian Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.
7. *Date:* August 06, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P003
   This meeting will discuss applications on the subjects of South and Southeast Asian Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.
8. *Date:* August 07, 2014
   Time: 8:30 a.m. to 5 p.m.
   Room: P002
   This meeting will discuss applications on the subject of American

Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

9. *Date:* August 07, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P003
This meeting will discuss applications on the subject of American Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

10. *Date:* August 08, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P002
This meeting will discuss applications on the subjects of German and Slavic Literature for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

11. *Date:* August 11, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P002
This meeting will discuss applications on the subject of Latin American Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

12. *Date:* August 11, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P003
This meeting will discuss applications on the subject of Latin American Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

13. *Date:* August 12, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P002
This meeting will discuss applications on the subjects of Medieval and Renaissance Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

14. *Date:* August 12, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P003
This meeting will discuss applications on the subjects of African and Middle Eastern Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

15. *Date:* August 13, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P002
This meeting will discuss applications on the subjects of Music and Dance for the Fellowships for University Teachers grant program, submitted to The Division of Research Programs.

16. *Date:* August 13, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P003
This meeting will discuss applications on the subjects of Communications, Rhetoric, Media, and Linguistics for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

17. *Date:* August 27, 2014
Time: 8:30 a.m. to 5 p.m.
Room: P002
This meeting will discuss applications for the Preservation and Access Education and Training grant program, submitted to the Division of Preservation and Access.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: July 15, 2014.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2014–17132 Filed 7–18–14; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0155]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 483, "Registration Certificate –*In Vitro* Testing with Byproduct Material Under General License."

2. *Current OMB approval number:* 3150–0038.

3. *How often the collection is required:* There is a one-time submittal of information to receive a validated copy of NRC Form 483 with an assigned registration number. In addition, any changes in the information reported on NRC Form 483 must be reported in writing to the NRC within 30 days after the effective date of such change.

4. *Who is required or asked to report:* Any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital which desires a general license to receive, acquire, possess, transfer, or use specified units of byproduct material in certain *in vitro* clinical or laboratory tests.

5. *The number of annual respondents:* 8 respondents.

6. *The number of hours needed annually to complete the requirement or request:* 1.18 hours (1.07 hours reporting + 0.11 hour recordkeeping).

7. *Abstract:* Section 31.11 of Title 10 of the *Code of Federal Regulations* (10 CFR) establishes a general license authorizing any physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital to possess certain small quantities of byproduct material for *in vitro* clinical or laboratory test not involving the internal or external administration of the byproduct material or the radiation therefrom to human beings or animals. Possession of byproduct material under 10 CFR 31.11 is not authorized until the physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital has filed NRC Form 483 and received from the Commission a validated copy of NRC Form 483 with a registration number.

Submit, by September 19, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at

the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0155. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0155. Mail comments to the Acting NRC Clearance Officer, Brenda Miles (T–5 F44), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Brenda Miles (T–5 F44), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7884, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 15th day of July 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–16990 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0141]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 9, "Public Records."

2. *Current OMB approval number:* 3150–0043.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Individuals requesting access to records under the Freedom of Information (FOIA) or Privacy Acts (PA), through the Public Document Room (PDR), and submitters of information containing trade secrets or confidential commercial or financial information who have been notified that the NRC has made an initial determination that the information should be disclosed.

5. *The number of annual respondents:* 6,970.

6. *The number of hours needed annually to complete the requirement or request:* 1,968.1.

7. *Abstract:* Part 9 of Title 10 of the *Code of Federal Regulations* (10 CFR), prescribes procedures for individuals making requests for records under the FOIA or PA, and through the PDR. It contains information collection requirements for requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests; appeals of denied requests; and requests for expedited processing. The information required from the public is necessary to justify requests for waivers or reductions in searching or copying fees; or to justify expedited processing. Section 9.28(b) provides that if the submitter of information designated to be trade secrets or confidential commercial or financial information objects to the disclosure, he must provide a written statement within 30 days that specifies all grounds why the information is a trade secret or commercial or financial information that is privileged or confidential.

Submit, by September 19, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0141. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0141. Mail comments to the Acting NRC Clearance Officer, Brenda Miles (T–5 F44), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Brenda Miles (T–5 F44), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7884, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 15th day of July, 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–16987 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0024]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 19, 2014.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 26, "Fitness-for-Duty Programs."

3. *Current OMB approval number:* 3150–0146.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* Annually and on occasion.

6. *Who will be required or asked to report:* (1) Licensees authorized to operate a nuclear power reactor; (2) licensees authorized to possess, use, or transport formula quantities of strategic special nuclear material (SSNM) under part 70 of Title 10 of the *Code of Federal Regulations* (10 FR); Corporations, firms, partnerships, limited liability companies, associations, or other organizations that obtain a certificate of compliance or an approved compliance plan under 10 CFR part 76, if the entity engages in activities involving formula quantities of SSNM; (3) combined license applicants (10 CFR part 52) who have been issued a limited work authorization (LWA, § 50.10(e)); combined license holders before the Commission has made the finding under of § 52.103(g); construction permit applicants who have been issued a LWA (§ 50.10) and construction permit holders (10 CFR part 50); and, early site permit holders who have been issued an LWA, all under specific circumstances; and, (4) contractor/vendors (C/V) who implement fitness-for-duty (FFD) programs or program elements, to the extent that licensees and other entities rely upon those C/V FFD programs or program elements to meet the requirements of this part.

7. *An estimate of the number of annual responses:* 411,209 (129 reporting responses + 411,015 third-party disclosure responses + 65 recordkeepers).

8. *The estimated number of annual respondents:* 98,630 respondents (30 drug and alcohol programs + 23 fatigue management programs + 12 HHS-certified laboratories + 98,565 third-party respondents).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 623,943.1 hours (6,165.0 hours reporting + 314,218.8 hours recordkeeping + 303,559.1 hours third-party disclosure).

10. *Abstract:* The NRC's regulations in 10 CFR part 26 prescribe requirements to establish, implement, and maintain FFD programs at affected licensees and other entities. The objectives of these requirements are to provide reasonable assurance that persons subject to the rule are trustworthy, reliable, and not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way could adversely affect their ability to safely and competently perform their duties. These requirements also provide reasonable assurance that the effects of fatigue and degraded alertness on individual's abilities to safely and competently perform their duties are managed commensurate with maintaining public health and safety. The information collections required by part 26 are necessary to properly manage FFD programs and to enable effective and efficient regulatory oversight of affected licensees other entities. These licensees and other entities must perform certain tasks, maintain records, and submit reports to comply with part 26 drug and alcohol provisions and fatigue management requirements. These records and reports are necessary to enable regulatory inspection and evaluation of a licensee's or entity's compliance with the NRC's regulations, its FFD performance, and of any significant FFD-related event to help maintain public health and safety, promote the common defense and security, and protect the environment.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 20, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Y. Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–0146), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Brenda Miles, telephone: 301–415–7884.

Dated at Rockville, Maryland, this 15th day of July 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–16989 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0130]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 74—Material Control and Accounting of Special Nuclear Material.

2. *Current OMB approval number:* 3150–0123.

3. *How often the collection is required:* Submission of fundamental material control plans is a one-time requirement which has been completed by all current licensees as required. However, licensees may submit amendments or revisions to the plans as necessary. In addition, specified inventory and material status reports are required annually or semi-annually. Other reports are submitted as events occur.

4. *Who is required or asked to report:* Persons licensed under part 70 of Title 10 of the *Code of Federal Regulations* (10 CFR), who possess and use certain forms and quantities of Special Nuclear Material (SNM).

5. *The number of annual respondents:* 18.

6. *The number of hours needed annually to complete the requirement or request:* The total number of annual burden hours is 9,914 hours (9,005 hours for recordkeeping and 909 hours for reporting).

7. *Abstract:* Part 74 establishes requirements for material control and accounting of SNM, and specific performance-based regulations for licensees authorized to possess, use, and produce strategic special nuclear material, and special nuclear material of moderate strategic significance and low strategic significance. The information is used by the NRC to make licensing and regulatory determinations concerning material accounting of special nuclear material and to satisfy obligations of the United States to the International Atomic Energy Agency. Submission or retention of the information is mandatory for persons subject to the requirements.

Submit, by September 19, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0130. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0130. Mail comments to the Acting NRC Clearance Officer, Brenda Miles (T–5 F44), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Brenda Miles (T–5 F44), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7884, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 15th day of July 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–16988 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0027]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 14, 2014.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Design Information Questionnaire—International Atomic Energy Agency (IAEA) N–71 and Associated Forms N–72, N–73, N–74, N–75, N–76, N–77, N–91, N–92, N–93, N–94.

3. *Current OMB approval number:* 3150–0056.

4. *The form number if applicable:* IAEA Form N–71 (and the appropriate associated IAEA Form) or Form N–91, to provide information concerning their installation for use by the IAEA.

5. *How often the collection is required:* It is estimated that this collection is required approximately 1 time per year.

6. *Who will be required or asked to report:* Licensees of facilities on the United States (U.S.) eligible list who have been notified in writing by the NRC to submit the form.

7. *An estimate of the number of annual responses:* 2.

8. *The estimated number of annual respondents:* 2.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 360 reporting hours.

10. *Abstract:* In order for the U.S. to fulfill its responsibilities as a participant in the U.S./IAEA Safeguards Agreement, the NRC must collect information from licensees about their installations and provide it to the IAEA. Licensees of facilities that appear on the U.S. eligible list and have been notified in writing by the NRC are required to complete and submit a Design Information Questionnaire, IAEA Form N–71 (and the appropriate associated IAEA Form) or Form N–91, to provide information concerning their installation for use by the IAEA.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 20, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–0056), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Brenda Miles, telephone: 301–415–7884.

Dated at Rockville, Maryland, this 15th day of July 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–16992 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0042]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on March 28, 2014.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 64, "Travel Voucher" (Part 1); NRC Form 64A, "Travel Voucher" (Part 2); and NRC Form 64B, "Optional Travel Voucher" (Part 2).

3. *Current OMB approval number:* 3150–0192.

4. *The form number if applicable:* NRC Form 64, "Travel Voucher" (Part 1); NRC Form 64A, "Travel Voucher" (Part 2); and NRC Form 64B, "Optional Travel Voucher" (Part 2).

5. *How often the collection is required:* On occasion.

6. *Who will be required or asked to report:* Contractors, consultants and invited NRC travelers who travel in the course of conducting business for the NRC.

7. *An estimate of the number of annual responses:* 100.

8. *The estimated number of annual respondents:* 100 (1 hour per form).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 100 (1 hour per form).

10. *Abstract:* Consultants, contractors, and those invited by the NRC to travel (e.g., prospective employees) must file travel vouchers and trip reports in order to be reimbursed for their travel expenses. The information collected includes the name, address, social security number, and the amount to be reimbursed. Travel expenses that are reimbursed are confined to those expenses essential to the transaction of official business for an approved trip.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 20, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Danielle Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–0192), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Brenda Miles, telephone: 301–415–7884.

Dated at Rockville, Maryland, this 15th day of July 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–16991 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0083]

Agency Information Collection Activities: Submission for the Office of Management and Budget Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 14, 2014.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (NRC Enforcement Policy).

3. *Current OMB approval number:* 3150–0136.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* On occasion.

6. *Who will be required or asked to report:* Those licensees that voluntarily request enforcement discretion through the NOED process, and are granted enforcement discretion.

7. *An estimate of the number of annual responses:* 20.

8. *The estimated number of annual respondents:* 12.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,492.

10. *Abstract:* The NRC's Enforcement Policy includes the circumstances in which the NRC may grant a NOED. On occasion, circumstances arise when a power plant licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or any other license condition would involve an unnecessary plant shutdown. Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement (TSR) or other condition would unnecessarily call for a total plant shutdown, or, compliance would unnecessarily place the plant in a condition where safety, safeguards, or security features were degraded or inoperable.

In these circumstances, a licensee or certificate holder may request that the NRC exercise enforcement discretion, and the NRC staff may choose to not enforce the applicable TS, TSR, or other

license or certificate condition. This enforcement discretion is designated as a NOED.

A licensee or certificate holder seeking the issuance of a NOED must document the safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed request, a description of proposed compensatory measures, a justification for the duration of the request, the basis for the licensee's or certificate holder's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

In addition, the NRC's Enforcement Policy includes a provision allowing licensees to voluntarily adopt fire protection requirements contained in the National Fire Protection Association (NFPA) Standard 805, "Performance Based Standard for Fire Protection for Light-Water Reactor Electric Generating Plants, 2001 Edition" (NFPA 805). Licensees who wish to implement the risk-informed process in NFPA 805 must submit a letter of intent to the NRC. Licensees who wish to withdraw from the NFPA 805 risk informed process must submit a letter of retraction.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 20, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Y. Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–0136), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Brenda Miles, telephone: 301–415–7884.

Dated at Rockville, Maryland, this 15th day of July, 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–16986 Filed 7–18–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form 8–A; OMB Control No. 3235–0056, SEC File No. 270–54

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 8–A (17 CFR 249.208a) is a registration statement used to register a class of securities under Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(b) and 78*l*(g)) ("Exchange Act"). Section 12(a) (15 U.S.C. 78*l*(a)) of the Exchange Act makes it unlawful for any member, broker, or dealer to effect any transaction in any security (other than an exempted security) on a national securities exchange unless such security has been registered under the Exchange Act (15 U.S.C. 78a *et seq.*). Exchange Act Section 12(b) establishes the registration procedures. Exchange Act Section 12(g) requires an issuer that is not a bank or bank holding company to register a class of equity securities (other than exempted securities) within 120 days after its fiscal year end if, on the last day of its fiscal year, the issuer has total assets of more than $10 million and the class of equity securities is "held of record" by either (i) 2,000 persons, or (ii) 500 persons who are not accredited investors. An issuer that is a bank or a bank holding company, must register a class of equity securities (other than exempted securities) within 120 days after the last day of its first fiscal year ended after the effective date of the JOBS Act if, on the last day of its fiscal year, the issuer has total assets of more than $10 million and the class of equity securities is "held of record" by 2,000 or more persons. Form 8–A takes approximately 3 hours to prepare and is filed by approximately 946 respondents for a total annual reporting burden of 2,838 hours (3 hours per response × 946 responses).

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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*.

Dated: July 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17016 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form TCR—Implementing the Whistleblower Provisions of Section 21 F of the Securities Exchange Act of 1934. SEC File No. 270–625, OMB Control No. 3235–0686.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995

(44 U.S.C. 3501 *et seq.*) ("PRA"), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit an extension for this current collection of information to the Office of Management and Budget for approval.

In Release No. 34–64545,[1] the Commission adopted rules ("Rules") and forms to implement Section 21F of the Securities Exchange Act of 1934 entitled "Securities Whistleblower Incentives and Protection," which was created by Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").[2] The Rules describe the whistleblower program that the Commission has established pursuant to the Dodd-Frank Act which requires the Commission to pay an award, subject to certain limitations and conditions, to whistleblowers who voluntarily provide the Commission with original information about a violation of the federal securities laws that leads to the successful enforcement of a covered judicial or administrative action, or of a related action. The Rules define certain terms critical to the operation of the whistleblower program, outline the procedures for applying for awards and the Commission's procedures for making decisions on claims, and generally explain the scope of the whistleblower program to the public and to potential whistleblowers.

Form TCR is a form submitted by whistleblowers who wish to provide information to the Commission and its staff regarding potential violations of the securities laws. Form TCR is required for submission of information under the Rules. The Commission estimates that it takes a whistleblower, on average, one and one-half hours to complete Form TCR. Based on the receipt of 3,120 annual responses on average for the past two fiscal years,[3] the Commission estimates that the annual PRA burden of Form TCR is 4,680 hours.

Form WB–APP is a form that is submitted by whistleblowers filing a claim for a whistleblower award. Form WB–APP is required for application for an award under the Rules. The Commission estimates that it takes a whistleblower, on average, two hours to complete Form WB–APP. The completion time depends largely on the complexity of the alleged violation and the amount of information the whistleblower possesses in support of his or her application for an award. Based on the receipt of 53 annual responses on average for the past two fiscal years, the Commission estimates that the annual PRA burden of Form WB–APP is 106 hours.

Estimated annual reporting burden = 4,786 hours.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 30 days of this publication. Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17020 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

[1] Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934, Release No. 34–64545; File No. S7–33–10 (adopted May 25, 2011).

[2] Public Law 111–203, § 922(a), 124 Stat 1841 (2010).

[3] Fiscal Year 2012 marks the first full year of whistleblower program data since the enactment of the Rules.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form F–10. SEC File No. 270–334, OMB Control No. 3235–0380

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form F–10 (17 CFR 239.40) is a registration statement under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) that may be used by a foreign private issuer that: is incorporated or organized in Canada; has been subject to, and in compliance with, Canadian reporting requirements for at least 12 months; and has an aggregate market value of common stock held by non-affiliates of at least $75 million. The purpose of this information collection is to permit verification of compliance with securities law requirements and assure the public availability of such information. We estimate that Form F–10 takes 25 hours per response and is filed by 40 respondents. We further estimate that 25% of the 25 hours per response (6.25 hours) is prepared by the issuer for an annual reporting burden of 250 hours (6.25 hours per response × 40 responses).

Written comments are invited on: (a) Whether this proposed collections of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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.*

Dated: July 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17019 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Form F–3, SEC File No. 270–251, OMB Control No. 3235–0256.

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management Budget for extension and approval.

Form F–3 (17 CFR 239.33) is used by foreign issuers to register securities pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. Form F–3 takes approximately 167 hours per response and is filed by approximately 107 respondents. We estimate that 25% of the 167 hours per response (41.757 hours) is prepared by the registrant for a total annual reporting burden of 4,468 hours (41.757 hours per response × 107 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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.*

Dated: July 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17018 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Form F–1. SEC File No. 270–249, OMB Control No. 3235–0258

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management Budget for extension and approval.

Form F–1 (17 CFR 239.31) is used by certain foreign private issuers to register securities pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. Form F–1 takes approximately 1,807.12 hours per response and is filed by approximately 63 respondents. We estimate that 25% of the 1,807.12 hours per response (451.78 hours) is prepared by the registrant for a total annual reporting burden of 28,462 hours (451.78 hours per response × 63 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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.*

Dated: July 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17017 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Rule 236, OMB Control No. 3235–0095, SEC File No. 270–118.

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 236 (17 CFR 230.236) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") provides an exemption from registration under the Securities Act for the offering of shares of stock or similar securities to provide funds to be distributed to security holders in lieu of fractional shares, scrip certificates or order forms, in connection with a stock dividend, stock split, reverse stock split, conversion, merger or similar transaction. Issuers wishing to rely upon the exemption are required to furnish specified information to the Commission at least 10 days prior to the offering. The information is needed to provide notice that the issuer is relying on the

exemption. Approximately 10 respondents file the information required by Rule 236 at an estimated 1.5 hours per response for a total annual reporting burden of 15 hours (1.5 hours per response × 10 responses).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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.*

Dated: July 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17014 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:

Regulation S–T. OMB Control No. 3235–424, SEC File No. 270–375.

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation S–T (17 CFR 232.10 through 232.501) sets forth the general requirements and procedures for the electronic submission of documents on the Electronic Data Gathering, Analysis and Retrieval ("EDGAR") System. Regulation S–T is assigned one burden hour for administrative convenience because it does not directly impose any information collection requirements.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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.*

Dated: July 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17015 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, July 23, 2014 at 10:00 a.m., in the Auditorium, Room L–002.

The subject matters of the Open Meeting will be:

- The Commission will consider whether to adopt amendments to certain rules under the Investment Company Act of 1940 that govern the operation of money market funds and related amendments to Form PF under the Investment Advisers Act of 1940. The Commission will also consider whether to issue a related notice of proposed exemptive relief.
- The Commission will consider whether to (i) re-propose amendments to the principal rule under the Investment Company Act of 1940 that governs the operation of money market funds to address provisions that reference credit ratings and (ii) propose an amendment to the diversification provisions in that rule.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17141 Filed 7–17–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Wednesday, July 23, 2014 at 1:00 p.m. and Thursday, July 24, 2014 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meetings in closed sessions.

The subject matter of the July 23, 2014 Closed Meeting will be: Institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

The subject matter of the July 24, 2014 Closed Meeting will be: Institution and settlement of injunctive actions; institution and settlement of

administrative proceedings; a litigation matter; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17142 Filed 7–17–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on July 25, 2014, at 10 a.m., in the Auditorium (L–002) at the Commission's headquarters building, to hear oral argument in an appeal by the Division of Enforcement from an initial decision of an administrative law judge.

On October 28, 2011, the law judge dismissed proceedings brought by the Division against Respondents John P. Flannery and James D. Hopkins, former employees of State Street Bank and Trust Company. The law judge held that Respondents did not violate the antifraud provisions of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b–5 because she found that, among other things, they did not make misleading statements regarding the portfolio holdings of an unregistered collective trust fund, the Limited Duration Bond Fund ("LDBF"), in communications with LDBF investors.

The issues likely to be considered at oral argument include whether Respondents violated the antifraud provisions as alleged and, if so, the extent to which they should be sanctioned for those violations.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: July 17, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17188 Filed 7–17–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72608; File No. SR–CBOE–2014–055]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Its Fees Schedule

July 15, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2014, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, to be effective July 1, 2014. First, the Exchange proposes to increase the fees for electronic Professional/Voluntary Professional (W) ("Professional") and Joint Back Office (J) ("JBO") executions in equity, ETF, ETN and index options classes (except, SPX, SPXW, SPXpm, SRO, OEX, XEO, VIX, VXST and VOLATILITY INDEXES (the "Special Classes")) from $0.30 to $0.45 for Penny Pilot Classes and $0.60 for Non-Penny Pilot Classes. The Exchange notes that the proposed fees are the same amount that are currently assessed to Broker-Dealers and non-Trading Permit Holder Market Makers. The Exchange also notes that this change is being proposed due to competitive reasons and that the increased amount is within the range of fees assessed for similar transactions on other exchanges.[3]

The Exchange also proposes to amend its Fees Schedule to adopt a fee of $200 per report per FBW group[4] per month for daily reports provided to requesting users of the Exchange's aggregation Floor Broker Workstation (which are used on the Exchange trading floor to enter orders) ("FBW"). The Exchange licenses the FBW software from a third-party vendor, which vendor operates FBW on behalf of the Exchange. This vendor also provides upon request by TPHs on an ad hoc basis reports related to their use of FBW. For example, some TPHs request reports related to the orders they enter on FBWs. Other TPHs request reports related to their market access control settings.[5] Currently, TPHs receive these ad hoc reports at no charge. Recently, however, FBW users have requested that they automatically receive reports on a daily basis. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* PHLX Pricing, Section II, Multiply Listed Options Fees.

[4] For business purposes, a Trading Permit Holder ("TPH") firm may group FBW users within that firm into an FBW aggregation group (for example, a TPH may have an index group and an equity group). If a TPH has FBW aggregation groups, the proposed fee will be applied to each group. For example, if a TPH has an FBW index group and an FBW equity group, and the TPH requests that it receive daily market access control reports for both groups, the Exchange will charge the TPH $400/month under the proposed fee.

[5] FBW includes a market access control window in which TPHs can input parameters and settings (which are displayed for each FBW aggregation group) with respect to their orders to help them manage their trading risk. These risk controls include pre-order controls (such as quantity of contracts per order, premium amount per order, number of identical orders and frequency of order entry) and aggregate controls (such as actual and predictive values for premium amount per day, quantity of contracts per day, and the number of orders with a status of working). Use of the market access control window is voluntary. Pursuant to the CBOE Fees Schedule, the Exchange charges TPHs $100/month per login ID (capped at $2,000 per month for a TPH) for use of the market access controls window costs.

FBW vendor has determined that the cost to provide a daily report for a TPH (or a TPH's FBW aggregation group, if applicable) is $200 per month and will assess to the Exchange a fee in this amount for the provision of each daily report (for each FBW aggregation group) to a TPH.[6] As such, the Exchange proposes to charge a fee in the same amount ($200 per report per month)[7] to each TPH that requests to receive a daily report(s) (for each FBW aggregation group, if applicable). The proposed fee essentially passes through to each requesting TPH the cost charged to the Exchange for daily reports for that TPH so that the Exchange can recoup this cost. Receipt of the daily reports, and thus the proposed fee, will be optional for TPHs.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders.

In particular, the Exchange's proposal to increase the electronic Professional and JBO options transaction fee in Penny Pilot Options to $0.45 per contract and in Non-Penny Pilot Options to $0.60 is reasonable because the Exchange's fees will remain competitive with fees at other options markets.[11] The Exchange believes that this proposed change is equitable and not unfairly discriminatory because the Exchange will assess Professionals, JBOs, Broker-Dealers and non-Trading Permit Holder Market Makers the same electronic options transaction fees in Penny Pilot options and Non-Penny options. The Exchange notes that it does not assess Customers the electronic options transaction fees in Penny Pilot and Non-Penny Pilot options because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange notes that Market Makers are assessed lower electronic options transaction fees in Penny Pilot and Non-Penny Pilot options as compared to Professionals, JBOs, Broker Dealers and non-Trading Permit Holder Market Makers because they have obligations to the market and regulatory requirements, which normally do not apply to other market participants (e.g., obligations to make continuous markets). Accordingly, the differentiation between electronic transaction fees for Customers, Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants.

The Exchange believes that the proposed fee of $200 per file per month (for each FBW aggregation group, if applicable) for the receipt of daily reports is reasonable because this is the cost imposed on the Exchange by the third-party vendor for the provision of these reports. The proposed fee merely allows the Exchange to recoup this cost by passing it through to the requesting TPH. The Exchange will not keep any of the fees assessed on TPHs. The Exchange believes that the proposed fee is equitable and not unfairly discriminatory because this fee is optional and will be assessed uniformly to all TPHs that request the daily market access control.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different electronic transaction fees are assessed to different market participants, these different market participants have different obligations and different circumstances (as described in the "Statutory Basis" section above). For example, Market Makers have quoting obligations that other market participants do not have and Customer order flow enhances liquidity on the Exchange for the benefit of all market participants as described in above. The Exchange believes that the proposal to increase the fee amount assessed to electronic Professional and JBO executions in Penny Pilot and Non-Penny Pilot options will not cause an unnecessary burden on intermarket competition because the fee and fee amount is similar to fees assessed at other exchanges.[12] To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

Finally, CBOE does not believe that the proposed rule change to adopt a FBW Report Fee will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee will be assessed uniformly to all TPHs that use FBW and request the daily reports. Receipt of the daily reports (and thus the proposed fee) will be optional for TPHs. In addition, the proposed fee applies only to users of FBWs located at the Exchange and is not intended for competitive reasons. The proposed fee merely allows the Exchange to recoup the cost imposed on it by the third-party vendor for the provision of these daily reports by passing it through to each requesting TPH.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[6] TPHs that want to receive daily reports should request them from the Exchange (as they currently do with respect to the ad hoc reports).

[7] For example, if a TPH requests that it receive a daily report for its orders and a daily report for its market access control settings, the Exchange will charge the TPH $400 per month ($200 for the order report and $200 for the market access control report).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(4).

[11] *See* PHLX Pricing, Section II, Multiply Listed Options Fees.

[12] *See* PHLX Pricing, Section II, Multiply Listed Options Fees.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and paragraph (f) of Rule 19b–4 [14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2014–055 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–055. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–055 and should be submitted on or before August 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17013 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72607; File No. SR–NASDAQ–2014–057]

Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust Low Duration Mortgage Opportunities ETF of First Trust Exchange-Traded Fund IV

July 15, 2014.

I. Introduction

On May 20, 2014, The NASDAQ Stock Market LLC ("Nasdaq" or the "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 list and trade shares ("Shares") of the First Trust Low Duration Mortgage Opportunities ETF ("Fund") of First Trust Exchange-Traded Fund IV ("Trust") under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The proposed rule change was published for comment in the **Federal Register** on June 5, 2014.[3] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72281 (May 30, 2014), 79 FR 32586 ("Notice").

II. Description of Proposed Rule Change

The Exchange has made the following representations and statements in describing the Fund and its investment strategies, including other portfolio holdings and investment restrictions.[4]

General

The Fund will be an actively-managed exchange-traded fund ("ETF"). The Shares will be offered by the Trust, which was established as a Massachusetts business trust on September 15, 2010. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A ("Registration Statement") with the Commission.[5] The Fund will be a series of the Trust. First Trust Advisors L.P. will be the investment adviser ("Adviser") to the Fund.[6] First Trust

[4] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, net asset value ("NAV") calculation, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions, and taxes, among other information, is included in the Notice and the Registration Statement, as applicable. *See* Notice and Registration Statement, *supra* note 3 and *infra* note 5, respectively.

[5] *See* Post-Effective Amendment No. 69 to Registration Statement on Form N–1A for the Trust, dated May 16, 2014 (File Nos. 333–174332 and 811–22559). The Exchange states that the Commission has issued an order granting certain exemptive relief under the Investment Company Act of 1940 ("1940 Act"). *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) ("Exemptive Relief"). In addition, the Exchange states that on December 6, 2012, the staff of the Commission's Division of Investment Management ("Division") issued a no-action letter ("No-Action Letter") relating to the use of derivatives by actively-managed ETFs. *See* No-Action Letter dated December 6, 2012 from Elizabeth G. Osterman, Associate Director, Office of Exemptive Applications, Division. The Exchange states that the No-Action Letter stated that the Division would not recommend enforcement action to the Commission under applicable provisions of and rules under the 1940 Act if actively-managed ETFs operating in reliance on specified orders (which include the Exemptive Relief) invest in options contracts, futures contracts, or swap agreements, provided that they comply with certain representations stated in the No-Action Letter.

[6] The Exchange states that the Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer. The Exchange states that the Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio, and that personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. The Exchange further states that, in the event (a) the Adviser or any sub-adviser becomes, or becomes newly affiliated with, a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the adviser or sub-adviser, as applicable, will

Portfolios L.P. ("Distributor") will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon Corporation will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.[7]

Principal Investments

The primary investment objective of the Fund will be to generate current income, and its secondary objective will be capital appreciation. Under normal market conditions,[8] the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in the mortgage-related debt securities and other mortgage-related instruments (collectively, "Mortgage-Related Investments") described below.

Under normal market conditions, the Fund will invest in Mortgage-Related Investments tied to residential and commercial mortgages.[9] Mortgage-Related Investments represent an interest in a pool of mortgage loans made by banks and other financial institutions to finance purchases of homes, commercial buildings, and other real estate. The individual mortgage loans are packaged or "pooled" together for sale to investors. As the underlying mortgage loans are paid off, investors receive principal and interest payments. Mortgage-Related Investments may be fixed-rate instruments, or they may be adjustable-rate instruments ("ARMS").

The Mortgage-Related Investments in which the Fund will invest may be, but are not required to be, issued or guaranteed by the U.S. government or by its agencies or instrumentalities, such as Ginnie Mae and U.S. government-sponsored entities, such as Fannie Mae and Freddie Mac (the U.S. government, its agencies and instrumentalities, and U.S. government-sponsored entities are referred to collectively as "Government Entities").[10] The Fund may invest in callable agency securities, which give the issuer (the U.S. government agency) the right to redeem the security prior to maturity. The Fund will limit its investments in Mortgage-Related Investments that are not issued or guaranteed by Government Entities to 20% of its net assets.[11]

Many Mortgage-Related Investments are pass-through securities, which means they provide investors with monthly payments consisting of a pro rata share of both regular interest and principal payments as well as unscheduled prepayments on the underlying mortgage loans. Because prepayment rates of individual mortgage pools vary widely, the average life of a particular pool cannot be predicted accurately.

The Fund currently targets an estimated effective duration[12] of three years or less. The Adviser will calculate the duration of the portfolio by modeling the cash flows of all the individual holdings, including the impact of prepayment variability and coupon adjustments, where applicable, to determine the duration of each holding and then aggregating based on the size of the position. In performing this duration calculation, the Adviser will utilize third-party models.

The Fund may invest, without limitation, in mortgage dollar rolls.[13] The Fund intends to enter into mortgage dollar rolls only with high quality securities dealers and banks, as determined by the Adviser. The Fund may also invest in to-be-announced transactions ("TBA Transactions").[14] Further, the Fund may enter into short sales as part of its overall portfolio management strategies or to offset a potential decline in the value of a security; however, the Fund does not expect, under normal market conditions, to engage in short sales with respect to more than 30% of the value of its net assets. To the extent required under applicable federal securities laws, rules, and interpretations thereof, the Fund will set aside liquid assets or engage in other measures to cover open positions and short positions held in connection with the foregoing types of transactions.

Although the Fund intends to invest primarily in investment grade securities,[15] the Fund may invest up to

implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

[7] The Exchange states that the Fund currently does not intend to use a sub-adviser.

[8] The term "under normal market conditions" as used herein includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot, labor disruption, or any similar intervening circumstance.

[9] Mortgage-Related Investments consist of: (1) Residential mortgage-backed securities ("RMBS"); (2) commercial mortgage-backed securities ("CMBS"); (3) stripped mortgage-backed securities ("SMBS"), which are mortgage-backed securities where mortgage payments are divided between paying the loan's principal and paying the loan's interest; and (4) collateralized mortgage obligations ("CMOs") and real estate mortgage investment conduits ("REMICs"), which are mortgage-backed securities that are divided into multiple classes, with each class being entitled to a different share of the principal and interest payments received from the pool of underlying assets.

[10] Securities issued by Government Entities have different levels of credit support. For example, Ginnie Mae securities carry a guarantee as to the timely repayment of principal and interest that is backed by the full faith and credit of the U.S. government. However, the full faith and credit guarantee does not apply to the market prices and yields of the Ginnie Mae securities or to the NAV, trading price, or performance of the Fund, which will vary with changes in interest rates and other market conditions. Fannie Mae and Freddie Mac pass-through mortgage certificates are backed by the credit of the respective instrumentality and are not guaranteed by the U.S. government. Other securities issued by Government Entities may only be backed by the creditworthiness of the issuing institution, not the U.S. government, or the issuers may have the right to borrow from the U.S. Treasury to meet their obligations.

[11] For the avoidance of doubt, Mortgage-Related Investments that are not issued or guaranteed by Government Entities will be included for purposes of the 80% requirement described in the first paragraph under the heading "Principal Investments."

[12] In comparison to maturity (which is the date on which a debt instrument ceases and the issuer is obligated to repay the principal amount), duration is a measure of the expected price volatility of a debt instrument as a result of changes in market rates of interest, based on the weighted average timing of the instrument's expected principal and interest payments and other factors. Duration differs from maturity in that it considers a security's yield, coupon payments, principal payments, call features, and coupon adjustments in addition to the amount of time until the security finally matures. As the value of a security changes over time, so will its duration. Prices of securities with lower durations tend to be less sensitive to interest rate changes than securities with higher durations. In general, a portfolio of securities with a lower duration can be expected to be less sensitive to interest rate changes than a portfolio with a higher duration.

[13] In a mortgage dollar roll, the Fund will sell (or buy) mortgage-backed securities for delivery on a specified date and simultaneously contract to repurchase (or sell) substantially similar (same type, coupon, and maturity) securities on a future date. During the period between a sale and repurchase, the Fund will forgo principal and interest paid on the mortgage-backed securities. The Fund will earn or lose money on a mortgage dollar roll from any difference between the sale price and the future purchase price. In a sale and repurchase, the Fund will also earn money on the interest earned on the cash proceeds of the initial sale.

[14] A TBA Transaction is a method of trading mortgage-backed securities. TBA Transactions generally are conducted in accordance with widely-accepted guidelines that establish commonly observed terms and conditions for execution, settlement, and delivery. In a TBA Transaction, the buyer and the seller agree on general trade parameters such as agency, settlement date, par amount, and price. The actual pools delivered generally are determined two days prior to the settlement date. The mortgage TBA market is liquid, and positions can be easily added, rolled, or closed. According to the Financial Industry Regulatory Authority ("FINRA") Trade Reporting and Compliance Engine ("TRACE") data, TBA Transactions represented approximately 93% of total trading volume for agency mortgage-backed securities in the month of January 2014.

[15] Investment grade securities include securities with, at the time of investment, credit ratings

Continued

20% of its net assets in securities of any credit quality, including securities that are below investment grade and securities that are unrated and have not been judged by the Adviser to be of comparable quality to rated investment grade securities.

Other Investments

The Fund may invest in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts.[16] The use of these derivative transactions may allow the Fund to obtain net long or short exposures to selected interest rates or durations. These derivatives may also be used to hedge risks associated with the Fund's other portfolio investments.

Under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in derivative instruments.[17] The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of an index.

The Fund may invest up to 20% of its net assets in short-term debt securities, money market funds, and other cash equivalents, or it may hold cash. The percentage of the Fund invested in such holdings will vary and will depend on several factors, including market conditions. For temporary defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies and invest part or all of its assets in these securities or it may hold cash. During such periods, the Fund may not be able to achieve its investment objectives. The Fund may adopt a defensive strategy when the Adviser believes that securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

Short-term debt securities are securities from issuers having a long-term debt rating of at least A by S&P Ratings, Moody's, or Fitch and having a maturity of one year or less. The use of temporary investments will not be a part of a principal investment strategy of the Fund.

Short-term debt securities are defined to include, without limitation, the following: (1) Fixed rate and floating rate U.S. government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or a savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,[18] which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes. The Fund may only invest in commercial paper rated A–1 or higher by S&P Ratings, Prime-1 or higher by Moody's, or F1 or higher by Fitch.

In addition to its investments in Mortgage-Related Investments issued or guaranteed by Government Entities (as described in Principal Investments above) and in the short-term debt securities described in clause (1) of the preceding paragraph, the Fund may also invest up to 20% of its net assets in other direct obligations of the U.S. government and in other securities issued or guaranteed by Government Entities. Such investments may include, without limitation, U.S. government inflation-indexed securities.[19]

The Fund may invest up to 20% of its net assets in the securities of other investment companies, including money market funds (as noted above) and other ETFs.[20]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including securities deemed illiquid by the Adviser.[21] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained and will consider taking appropriate steps in

within the four highest rating categories of a nationally recognized statistical rating organization such as Moody's Investors Service, Inc. ("Moody's"), Fitch Ratings ("Fitch"), Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P Ratings"), or another nationally recognized statistical rating organization ("NRSRO"), and unrated securities judged to be of comparable quality by the Adviser. Comparable quality of unrated securities will be determined by the Adviser based on fundamental credit analysis of the unrated security and comparable NRSRO-rated securities. On a best-efforts basis, the Adviser will attempt to make a rating determination based on publicly available data. In making a "comparable quality" determination, the Adviser may consider, for example, whether the issuer of the security has issued other rated securities, the nature and provisions of the relevant security, whether the obligations under the relevant security are guaranteed by another entity and the rating of such guarantor (if any), relevant cash flows, macroeconomic analysis, and sector or industry analysis.

[16] At least 90% of the Fund's net assets that are invested in exchange-traded equity securities and exchange-traded derivatives (in the aggregate) will be invested in investments that trade in markets that are members of the Intermarket Surveillance Group ("ISG") or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[17] The Fund will limit its direct investments in futures and options on futures to the extent necessary for the Adviser to claim the exclusion from regulation as a "commodity pool operator" with respect to the Fund under Rule 4.5 promulgated by the Commodity Futures Trading Commission ("CFTC"), as such rule may be amended from time to time. Under Rule 4.5 as currently in effect, the Fund will limit its trading activity in futures and options on futures (excluding activity for "bona fide hedging purposes," as defined by the CFTC) such that it will meet one of the following tests: (i) Aggregate initial margin and premiums required to establish its futures and options on futures positions will not exceed 5% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions; or (ii) aggregate net notional value of its futures and options on futures positions will not exceed 100% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions.

[18] The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust ("Trust Board"). The Adviser will review and monitor the creditworthiness of such institutions. The Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

[19] Inflation-indexed securities are fixed-income securities that are structured to provide protection against inflation. The value of the security's principal or the interest income paid on the security is adjusted to track changes in an official inflation measure. The U.S. Treasury uses the Consumer Price Index for Urban Consumers as the inflation measure.

[20] An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country, and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by other ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.*, 2X or −3X) ETFs.

[21] In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.*, the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry. This restriction does not apply to obligations issued or guaranteed by the U.S. government, or by its agencies or instrumentalities, or to securities of other investment companies.

The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [22] and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[24] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the initial and continued listing criteria in Nasdaq Rule 5735 for the Shares to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[25] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association ("CTA") plans for the Shares. In addition, the Intraday Indicative Value,[26] as defined in Nasdaq Rule 5735(c)(3), available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.[27] On each business day, before commencement of trading in Shares in the Regular Market Session [28] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (the "Disclosed Portfolio" as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[29] The Fund's custodian, through the National Securities Clearing Corporation ("NSCC"), will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments, as well as amount of cash (if any), constituting the creation basket for that day. The NAV of the Fund will be determined as of the close of trading (normally 4:00 p.m., Eastern Time) on each day the New York Stock Exchange is open for business.[30] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Intraday executable price information for fixed income securities, exchange-traded equity securities, and derivatives held by the Fund will be available from major broker-dealer firms and major market data vendors. Additionally, FINRA's TRACE will be a source of price information for certain of the Mortgage-Related Investments held by the Fund. For exchange-traded assets, intraday price information will be available directly from the applicable listing exchanges. Intraday price information will also generally be available through subscription services, which can be accessed by authorized participants and other investors. Registered open-end management investment companies (other than ETFs) are generally priced once each business day, and these prices are available through the applicable fund's Web site or major market data vendors. The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pause provisions under

[22] 15 U.S.C. 78f.

[23] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[26] According to the Exchange, the Intraday Indicative Value reflects an estimated intraday value of the Fund's Disclosed Portfolio. The Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio. The Intraday Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the Intraday Indicative Value and the market price may occur. The Intraday Indicative Value should not be viewed as a "real time" update of the NAV per Share of the Fund, which is calculated only once a day.

[27] Currently, the NASDAQ OMX Global Index Data Service ("GIDS") is the NASDAQ OMX global index data feed service. The Exchange represents that GIDS offers real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs and that GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

[28] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4:00 p.m. or 4:15 p.m., Eastern Time; and (3) Post-Market Session from 4:00 p.m. or 4:15 p.m. to 8:00 p.m., Eastern Time).

[29] The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio.

[30] NAV will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing this amount by the total number of Shares outstanding.

Nasdaq Rules 4120(a)(11) and (12). Trading in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[31] and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which trading in Shares of the Fund may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[32] In addition, the Exchange states that the Adviser is not a broker-dealer, but it is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition or for changes to the portfolio, and personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio.[33] The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[34] The Exchange further represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Moreover, prior to the commencement of trading, the Exchange states that it will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including the following:

(1) The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the other exchange-traded assets with other markets and other entities that are members of ISG,[35] and FINRA may obtain trading information regarding trading in the Shares and the other exchange-traded assets from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the other exchange-traded assets from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[36]

(6) At least 90% of the Fund's net assets that are invested in exchange-traded equity securities and exchange-traded derivatives (in the aggregate) will be invested in investments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including securities deemed illiquid by the Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(8) Under normal market conditions, the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in Mortgage-Related Investments. The Fund will limit its investments in Mortgage-Related Investments that are not issued or guaranteed by Government Entities to 20% of its net assets.

(9) Under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in

[31] These reasons may include: (1) The extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.

[32] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[33] *See supra* note 6. The Exchange states that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 ("Advisers Act"). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients, as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[34] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[35] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[36] *See* 17 CFR 240.10A–3.

derivative instruments. The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of an index.

(10) The Fund intends to invest primarily in investment grade securities and will limit investments in securities of any credit quality, including securities that are below investment grade and securities that are unrated and have not been judged by the Adviser to be of comparable quality to rated investment grade securities, to 20% of its net assets.

(11) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [37] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[38] that the proposed rule change (SR–NASDAQ–2014–057) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17034 Filed 7–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Cubed, Inc.; Order of Suspension of Trading

July 17, 2014.

It appears to the Securities and Exchange Commission ("Commission") that there is a lack of current and accurate information concerning the securities of Cubed, Inc. ("Cubed"), particularly with respect to the company's current financial condition. Cubed is a Nevada corporation with its principal place of business located in Las Vegas, Nevada. Its stock is quoted on OTC Link, operated by OTC Markets Group Inc., under the ticker: CRPT. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Cubed.

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 company is suspended for the period from 9:30 a.m. EDT on July 17, 2014, through 11:59 p.m. EDT on July 30, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–17186 Filed 7–17–14; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 8800]

30-Day Notice of Proposed Information Collection: Medical Examination for Immigrant or Refugee Applicant

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to August 20, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Sydney Taylor at *PRA_BurdenComments@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Medical Examination for Immigrant or Refugee Applicant.
- *OMB Control Number:* 1405–0113.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* CA/VO/L/R.
- *Form Number:* DS–2053, DS–3024, DS–3025, DS–3026, DS–3030, DS–2054.
- *Respondents:* Immigrant or Refugee Applicant.
- *Estimated Number of Respondents:* 660,000.
- *Estimated Number of Responses:* 660,000.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 660,000 hours.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Forms for this collection are completed by panel physicians for refugees and aliens seeking immigrant visas to the U.S. The collection records medical information necessary to determine whether refugees or immigrant visa applicants have medical conditions affecting the public health and requiring treatment.

Methodology

A panel physician, contracted by the consular post in accordance with instructions issued by the Centers for Disease Control (CDC), performs the medical examination of the applicant and completes the forms. The CDC also provides panel physicians with technical instructions (TIs) for

[37] 15 U.S.C. 78f(b)(5).

[38] 15 U.S.C. 78s(b)(2).

[39] 17 CFR 200.30–3(a)(12).

completing the form. Panel physicians follow either the 1991 version or the 2007 version of the TIs. Forms DS–2053 and DS–3024 correspond with the 1991 TIs; Form DS–2054 and Form DS–3030 correspond with the 2007 TIs. Forms DS–3025 and DS–3026 correspond with both sets of TIs. Upon completing the applicant's medical examination, the examining panel physician submits a report to the consular officer on Form DS–2053 or DS–2054.

Dated: June 19, 2014.

Karin King,

(Acting) Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2014–17100 Filed 7–18–14; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 8801]

30-Day Notice of Proposed Information Collection: Certificate of Eligibility for Exchange Visitor Status (J-Non-Immigrant)

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to August 20, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Robin J. Lerner, Deputy Assistant Secretary for Private Sector Exchange, ECA/EC, SA–5, Floor 5, U.S. Department of State, 2200 C Street NW., Washington, DC 20522–0505, who may be reached on (202) 632–3206 or at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Certificate of Eligibility for Exchange Visitor Status (J–NONIMMIGRANT).
- *OMB Control Number:* OMB No. 1405–0119.
- *Type of Request:* Revision of a currently approved collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Policy and Program Support (ECA/EC).
- *Form Number:* DS–2019.
- *Respondents:* U.S. Department of State designated sponsors.
- *Estimated Number of Respondents:* 1,400.
- *Estimated Number of Responses:* 325,000.
- *Average Time Per Response:* 45 minutes.
- *Total Estimated Burden Time:* 243,750 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain a benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-visa) under the provisions of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.). Among the changes to the collection are: A name change to "Certificate of Eligibility for Exchange Visitor Status (J–NONIMMIGRANT)." However, each completed form will continue to note whether it is for a J–1 or a J–2 recipient. In addition, there are updates to the Paperwork Reduction Act address listed on Form DS–2019 and to form usage information. There has been a change to the exchange visitor name field to read Surname/Primary Name and Given Name. Changes also have been made to the following fields in the electronic data-gathering portion of the form: email address will be a required field at the time of validation for all exchange visitors coming to the United States under the auspices of designated Exchange Visitor Program sponsors [all categories except for International Visitors (22 CFR 62.28), Government Visitors (22 CFR 62.29), and visitors on U.S. Department of State-funded programs]; there will be an optional field for the exchange visitor's U.S. telephone number; and there will be fields for both the exchange visitor's mailing address and physical address. Three changes have been made to the instruction portion of Form DS–2019: Flight Trainees have been removed as an exchange category, as these are no longer part of the Exchange Visitor Program; instructions clarify who should sign the J–1 and J–2 forms; and amounts in the Insurance section have changed.

Methodology: Access to Form DS–2019 is made available to Department-designated sponsors electronically via the Student and Exchange Visitor Information System (SEVIS).

Dated: July 11, 2014.

Nicole Deaner,

Managing Director, Office of Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2014–17125 Filed 7–18–14; 8:45 am]

BILLING CODE 4710–05–P

TRADE AND DEVELOPMENT AGENCY

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: United States Trade and Development.

ACTION: Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the U.S. Trade and Development Agency's intention to request an extension for a currently approved information collection for Evaluation of USTDA Performance. USTDA invites general public and other Federal agencies to take this opportunity to comment on the

following proposed information collection. 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 Carolyn Hum, *Administrative Officer.* All comments received will be available for public inspection during regular business hours at the same address.

DATES: Comments on this notice must be received by September 19, 2014 to be assured of consideration.

FOR ADDITIONAL INFORMATION CONTACT: Contact Carolyn Hum, Administrative Officer, Attn: PRA, U.S. Trade and Development Agency, 1000 Wilson Blvd., Suite 1600, Arlington, VA 22209–3901; Tel.: (703) 875–4357, Fax: (703) 875–4009; Email: *PRA@ustda.gov.*

SUPPLEMENTARY INFORMATION:

Summary Collection Under Review

Type of Request: Extension of a currently approved information collection.

Expiration Date of Previous Approval: 12/31/2014.

Title: Evaluation of USTDA Performance.

Form Number: USTDA 1000E–2011a.

Frequency of Use: annually for duration of project.

Type of Respondents: Business or other for profit; Not-for-profit institutions; Farms; Federal Government.

Estimated Number of Responses: 1,840 to 2,200 per year.

Estimated Total Annual Burden on Respondents: 613 to 733 hours per year.

Federal Cost: $369,699.

Authority for Information Collection: Government Performance and Results Act of 1993 103 Public Law 62; 107 Stat. 285.

Abstract: USTDA and contractors will collect information from various stakeholders on USTDA-funded activities regarding development impact and/or commercial objectives as well as evaluate success regarding GPRA objectives.

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: July 16, 2014.

Carolyn Hum,

Administrative Officer.

[FR Doc. 2014–17070 Filed 7–18–14; 8:45 am]

BILLING CODE 8040–01–P

TENNESSEE VALLEY AUTHORITY

Dam Safety Modifications at Cherokee, Fort Loudoun, Tellico, and Watts Bar Dams

AGENCY: Tennessee Valley Authority.

ACTION: Amended Record of Decision.

SUMMARY: The Tennessee Valley Authority (TVA) is amending its July 2, 2013, Record of Decision (ROD) for the *Final Environmental Impact Statement for Dam Safety Modifications at Cherokee, Fort Loudoun, Tellico, and Watts Bar Dams.* In the 2013 ROD, TVA decided to implement the dam safety modifications described in the preferred Alternative B, Permanent Modifications of Dam Structures: Combination of Concrete Floodwalls and Earthen Embankments. Based on the results of subsequent engineering and feasibility studies, TVA has revised its approach for the permanent modifications to incorporate the use of roller-compacted concrete (RCC) at Cherokee and Fort Loudoun Dams and increases in the elevations of modifications at Fort Loudoun, Tellico, and Watts Bar Dams. In May, 2014, TVA completed a Supplemental Analysis (SA) of the potential impacts of the proposed revisions to the dam safety modifications. Based on the Final Environmental Impact Statement (EIS) and the SA, TVA now amends the July 2013 ROD to incorporate the revised approach.

FOR FURTHER INFORMATION CONTACT: Charles P. Nicholson, NEPA Compliance Manager, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11D, Knoxville, Tennessee 37902–1499; telephone 865–632–3582, or email *cpnicholson@tva.gov.*

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR 1500 to 1508) and TVA's procedures for implementing the National Environmental Policy Act (NEPA). TVA is an agency and instrumentality of the United States, established by an act of Congress in 1933, to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the proper use and conservation of the region's natural resources. A fundamental part of this mission was the construction and operation of an integrated system of dams and reservoirs. As directed by the TVA Act, TVA uses this system to manage the water resources of the Tennessee River for the purposes of navigation, flood control, and power production. Consistent with these purposes, TVA operates the system to provide a wide range of other benefits.

As the Federal agency responsible for the operation of numerous dams, and consistent with the Federal Guidelines for Dam Safety issued by the Federal Emergency Management Agency, TVA prepares for the worst case flooding event in order to protect against dam failure, loss of life, major property damage, and impacts to critical facilities. This worst case flooding event is known as the PMF, defined as the flood that may be expected from the most severe combination of critical meteorological and hydrological conditions that are reasonably possible in a particular area. Nuclear Regulatory Commission (NRC) nuclear plant operating regulations also require that nuclear plants be protected against the adverse effects of the PMF. TVA periodically reviews and revises its calculations of PMF elevations. During the most recent review (completed in 2008), TVA determined that the updated PMF elevations at Cherokee, Fort Loudoun, Tellico, and Watts Bar Dams, as well as at TVA's Watts Bar and Sequoyah Nuclear Plants, were higher than previously calculated.

The differences in PMF elevations are sufficient to indicate that a PMF event could cause water to flow over the top of the dams, even with the floodgates wide open, possibly resulting in dam failure. Failure of one or more of these dams would result in extensive damage to buildings, infrastructure, property, and natural resources, as well as potential personal injury and loss of life.

In 2009, TVA implemented temporary measures at the four dams to remain consistent with Federal guidelines and to comply with nuclear operating regulations for safe operations of the river and reservoir system, and to minimize the potential effects of the PMF. These temporary measures consisted of raising the heights of the four dams by installing interconnected, fabric lined HESCO Concertainer® units filled with crushed stone on top of the earthen embankments of each dam. In a January 25, 2012 letter from NRC to TVA, NRC stated that the HESCO barriers were not capable of resisting impacts from large debris during a flood

and are not acceptable as a long-term solution to protecting the dams, and downstream nuclear plants, during the PMF. At the time the NRC letter was received, TVA had not made any decisions about whether or how to replace the HESCO barriers. After receiving the letter, TVA made the commitment to NRC to develop and implement permanent dam safety modifications to replace the temporary measures at the four dams.

TVA issued the Final EIS for the permanent dam safety modifications in May 2013. In the July 2013 ROD, TVA announced its decision to implement Alternative B—Permanent Modifications of Dam Structures: Combination of Concrete Floodwalls and Earthen Embankments, and has begun constructing the permanent modifications.

Supplemental Analysis

The SA addresses Revised Alternative B—Permanent Modifications of Dam Structures: Combination of Concrete Floodwalls, Earthen Embankments, and Roller-Compacted Concrete. Under Revised Alternative B, TVA would construct the permanent modifications at Cherokee Dam with RCC or a combination of RCC and earthen embankment. The 40-foot increase in the height of the south spillway training wall and associated backfill have been determined to be unnecessary and would not be constructed. At Fort Loudoun Dam, TVA would increase the elevation of the permanent modifications by 1.0 foot and the 2,600-foot FTL–3 concrete floodwall would be replaced with a 1,400-foot section of RCC located on the current roadbed of US Highway 321 between the south end of the US Highway 321 bridge over Fort Loudoun Dam and the US Highway 321—Tellico Parkway intersection. This segment would be constructed after the Tennessee Department of Transportation completes the new US Highway 321 bridge located downstream of the dam and relocates traffic onto the new bridge and connecting roadway. A 250-foot section of earthen embankment would be constructed near the intersection of US Highway 321 and Tellico Parkway. Flood protection in the remainder of the original FTL–3 segment would be provided by the increased elevation of the reconstructed US Highway 321 and Tellico Parkway; the entrance road into the Tellico Recreation Area would be modified to match this increased elevation. The elevation of Tellico Segment T–1 would be increased by 1.1 foot. The permanent modifications to the other segments at Tellico Dam would be the same as described in the selected Alternative B. At Watts Bar Dam, the elevation of the earthen embankments would be increased by 0.1 foot and the elevation of the WB–3 concrete floodwall would be increased by 1.5 foot. TVA is also considering increasing the height of the earthen embankments at Watts Bar Dam by an additional 1.5 to 2.5 feet, and increasing the height of the WB–3 concrete floodwall by 0.5 to 3.5 feet. These proposed actions are not among those included in this Record of Decision and are currently undergoing additional environmental analyses.

As described in the SA, available at *http://www.tva.com/environment/reports/dam_safety/index.htm*, the proposed revisions to Alternative B would have no effect on most environmental resources. They do have the potential to affect cultural and historic resources, transportation, visual resources, recreation, and public safety. TVA has determined that these impacts would be short-term and minor and similar to or less than the impacts assessed for those resources in the Final EIS for Alternative B. Revised Alternative B would result in beneficial impacts to transportation at Fort Loudoun and Cherokee Dams and to public safety at Fort Loudoun compared to Alternative B due to reduced interference with traffic. Revised Alternative B would also reduce the impacts to visual resources at Cherokee and Fort Loudoun Dams.

Amended Decision

TVA has decided to implement the Revised Alternative B—Permanent Modifications of Dam Structures: Combination of Concrete Floodwalls, Earthen Embankments, and Roller-Compacted Concrete. Revised Alternative B would result in fewer transportation and public safety impacts and minor beneficial impacts to visual resources in comparison to the previously selected Alternative B. Revised Alternative B would also result in a shorter overall construction period.

Mitigation Measures

The July 2013 ROD lists mitigation measures associated with the selected Alternative B. These mitigation measures remain in effect and TVA has not identified the need for additional mitigation measures associated with Revised Alternative B.

Dated: July 7, 2014.

John J. McCormick, Jr.,

Vice President, River Operations.

[FR Doc. 2014–17038 Filed 7–18–14; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 2, 2014, vol. 79, no. 85, page 25171–25172. This collection of information request is for Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Requirements Special Federal Aviation Regulation. The pilot training requires a logbook endorsement and documentation of a training-course completion record.

DATES: Written comments should be submitted by August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0725.

Title: Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Procedures.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: In response to the increasing number of accidents and incidents involving the Mitsubishi MU–2B series airplane, the Federal Aviation Administration (FAA) began a safety evaluation of the MU–2B in July of 2005. As a result of this safety evaluation, the FAA published a Special Federal Aviation Regulation (SFAR) on February 6, 2008 (73 FR 7033) that established a standardized pilot training program. The collection of information is necessary to document participation, completion, and compliance with the pilot training program.

Respondents: Approximately 600 MU–2B pilots.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3 minutes.

Estimated Total Annual Burden: 100 hours.

ADDRESSES: Interested persons are invited to 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 attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on July 15, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–16997 Filed 7–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Airport Property From Quitclaim Deed; Venice Municipal Airport, Venice, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release approximately 48 acres of airport property at Venice Municipal Airport, Venice, FL, from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Venice, FL, dated June 10, 1947. The release of property will allow the City of Venice to dispose of the property for other than aeronautical purposes. The property is located at 2350 Scenic Drive along the Intracoastal Waterway Canal. The parcel is currently designated as non-aeronatutical land use. The property will be released of its federal obligations for municipal land use. The fair market value of this parcel has been determined to be $475,000.

DATES: Comments are due on or before August 20, 2014.

ADDRESSES: Documents are available for review at Venice Municipal Airport, 150 Airport Ave. E, Venice FL 34285; and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024. Documents reflecting the Sponsor's request are available for inspection by appointment only at Venice Municipal Airport and by contacting the FAA at the address listed above.

FOR FURTHER INFORMATION CONTACT: Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

Issued in Orlando, Florida, on July 15, 2014.

Bart Vernace,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2014–17122 Filed 7–18–14; 8:45 a.m.]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Airport Property From Quitclaim Deed; Venice Municipal Airport, Venice, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release approximately 1.166 acres of airport property at Venice Municipal Airport, Venice, FL, from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Venice, FL, dated June 10, 1947. The release of property will allow the City of Venice to dispose of the property for other than aeronautical purposes. The property is located at 1600 Harbor Drive South. The parcel is currently designated as non-aeronautical land use. The property will be released of its federal obligations for commercial land use. The fair market value of this parcel has been determined to be $2,200,000.

DATES: Comments are due on or before August 20, 2014.

ADDRESSES: Documents are available for review at Venice Municipal Airport, 150 Airport Ave. E, Venice FL 34285; and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024. Documents reflecting the Sponsor's request are available for inspection by appointment only at Venice Municipal Airport and by contacting the FAA at the address listed above.

FOR FURTHER INFORMATION CONTACT: Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

Issued in Orlando, Florida, on July 15, 2014.

Bart Vernace,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2014–17113 Filed 7–18–14; 8:45 a.m.]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Salt Lake County, Utah

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for proposed transportation improvements in Salt Lake County, Utah.

FOR FURTHER INFORMATION CONTACT: Bryan Dillon, Area Engineer, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84129, Telephone: (801) 955–3517, email *Bryan.Dillon@dot.gov*; or Peter Tang, Project Manager, Utah Department of Transportation, Region Two Office, 2010 South 2760 West, Salt Lake City, UT 84104, Telephone: (801) 887–3459, email *ptang@utah.gov*.

SUPPLEMENTARY INFORMATION: FHWA, in cooperation with the Utah Department of Transportation (UDOT), will prepare an EIS on a proposal to address current and projected traffic demand at the State Street Interchange on I–80 in South Salt Lake City, Salt Lake County, Utah. The proposed study area extends from approximately I–15 to 700 East and from approximately 2100 South to 2700 South. Transportation improvements in this area are needed to address current and projected 2040 traffic demand, address mobility issues, provide for economic growth, and improve safety.

The FHWA will consider a reasonable range of alternatives which meet the project purpose and need and are based on agency and public input. These alternatives include: (1) Taking no action; (2) using access control and transportation system management/ travel demand management to improve the efficiency of the existing network; (3) using alternate travel modes; (4) improving the interchange on I–80 at State Street; (5) making improvements to adjacent facilities; (6) combinations of any of the above; and (7) other feasible alternatives identified during the scoping process.

A Coordination Plan is being prepared to define the agency and public participation process for the environmental review process. The plan will outline how agencies and the public will provide input during the scoping process, the development of the purpose and need, and alternatives development.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, state, and local agencies, and to private organizations and citizens who have previously expressed or who are known to have an interest in this proposal. These letters will invite agencies and the public to participate in scoping meetings at locations and dates to be determined.

Public meetings will be held to allow the public, as well as Federal, state, and local agencies to provide comments on the purpose and need for the project, potential alternatives, and social, economic, and environmental issues of concern.

In addition, a public hearing will be held following the release of the draft EIS. Public notice advertisements and direct mailings will notify interested parties of the time and place of the public meetings and the public hearing.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or UDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20–205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Ivan Marrero,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 2014–17039 Filed 7–18–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2014–0011–N–02]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requests (ICRs) abstracted below are being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes 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 May 7, 2014 (79 FR 26299).

DATES: Comments must be submitted on or before August 20, 2014.

FOR FURTHER INFORMATION CONTACT: 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). (This telephone number is 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 May 7, 2014, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. *See* 79 FR 26299. FRA received no comments after issuing this notice. Accordingly, these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and are being 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 summary below describes the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Capital Grants for Rail Line Relocation and Improvement Projects.

OMB Control Number: 2130–0578.

Type of Request: Extension without change of a previously approved collection.

Abstract: Section 9002 of SAFETEA–LU amended chapter 201 of Title 49 of the United States Code by adding new section 20154, which establishes the basic elements of a funding program for capital grants for rail relocation and improvement projects. Subsection (b) of the new section 20154 mandates that the Secretary of Transportation issue "temporary regulations" to implement the capital grants program and then issue final regulations by October 1, 2006.

In FY 2008, Congress appropriated $20,145,000 for the Program, reduced by rescission to $20,040,200. Of this sum, $14,905,000 was available for discretionary (competitive) grants. After evaluating and scoring 37 applications, FRA awarded $14,315,300 to seven different projects, leaving $589,700. In FY 2009, Congress appropriated $25,000,000 and directed that $17,100,000 be awarded to 23 specific projects, with $7,900,000 left over for discretionary grants. Subsequently, in FY 2010, Congress appropriated $34,532,000 for the Program, and directed that $24,519,200 go to 27 specifically enumerated projects. FRA combined the remaining $10,012,800 with the $589,700 that was not awarded from the FY 2008 competition, $2,000,000 that was awarded to one of the FY 2008 projects but which the project sponsors ultimately turned down, and the $7,900,000 in FY 2009 discretionary funding for a total of $20,502,500. These funds were the subject of a Notice of Funding Availability that FRA published in the **Federal Register** on September 10, 2010. The application period closed on October 29, 2010.

Annual Estimated Burden: 26,083 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. Comments may also be sent via email to OMB 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 July 15, 2014.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2014–16984 Filed 7–18–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4219

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 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes.

DATES: Written comments should be received on or before September 19, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to 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: Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes.

OMB Number: 1545–2254.

Form Number: Form 4219.

Abstract: Third parties who directly pay another's payrolls can be held liable for the full amount of taxes required to be withheld but not paid to the Government (subject to the 25% limitation). IRC 3505 deals with persons who supply funds to an employer for the purpose of paying wages. The notification that a third party is paying or supplying wages will usually be made by filing of the Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes. The Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes, is to be submitted and associated with each employer and for every calendar quarter for which a liability under section 3505 is incurred.

Current Actions: There are no changes to the form. We are making this submission to extend the current OMB approval.

Type of Review: Revision or Extension of currently approved collection.

Affected Public: Businesses and other for-profit organizations, not-for-profit institutions, farms, Federal Government, State, Local, or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 12 hours 50 minutes.

Estimated Total Annual Burden Hours: 12,833.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 9, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–17099 Filed 7–18–14; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 79 Monday,
No. 139 July 21, 2014

Part II

Department of Education

34 CFR Chapter III
Final Priority; National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers; Rule; Applications for New Awards; National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers; Notice

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2014–OSERS–0011; CFDA Number: 84.133P–5.]

Final Priority; National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Advanced Rehabilitation Research Training (ARRT) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, we announce a priority for an ARRT on Advanced Rehabilitation Research Policy Fellowship. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years. We take this action to focus research attention on an area of national need. We intend the priority to strengthen the capacity of the disability and rehabilitation fields to train researchers to conduct advanced policy research in the areas of rehabilitation and disability.

DATES: This priority is effective August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. The program is also intended to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Advanced Rehabilitation Research Training Program

The purpose of NIDRR's ARRT program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to provide advanced research training and experience to individuals with doctorates or similar degrees who have clinical or other relevant experience. ARRT projects train rehabilitation researchers, including researchers with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act, and that improve the effectiveness of services authorized under the Rehabilitation Act. Additional information on the ARRT program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#ARRT.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority for this program in the **Federal Register** on May 13, 2014 (79 FR 27233). That notice contained background information and our reasons for proposing the particular priority.

There are differences between the proposed priority and this final priority as discussed in the *Analysis of Comments and Changes* section of this notice.

Public Comment: In response to our invitation in the notice of proposed priority, three parties submitted comments on the proposed priority.

Generally, we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Comment: One commenter expressed concern with the requirement in paragraph (b), that applicants under this priority require their Rehabilitation Research Policy Fellows to complete a training program that lasts two years. The commenter stated that although a two-year training program is ideal, some high-quality fellowship candidates may not be able to dedicate two full years to such a program. The commenter noted that outstanding candidates for policy research fellowship positions may only desire a one-year fellowship or may be offered full-time academic positions that preclude them from completing a two-year fellowship program. The commenter suggested that NIDRR modify the priority to allow the grantee greater flexibility in determining the length of the fellowship period, if two years is not optimal for some fellowship candidates.

Discussion: NIDRR's aim is to sponsor a program that provides high-quality, multi-disciplinary policy research instruction and mentorship, as well as opportunities to engage in policy research in Washington, DC. Although the regulations for this program define the required duration as a minimum of at least one academic year, in recent years, the vast majority of grantees have elected to propose and implement a two-year training program to satisfy all the required components of the training program, including ensuring the desired outcome of independent research. NIDRR feels it is reasonable to expect that, for ARRT fellows who are selected to engage in the one-year Residential Fellowship opportunity in Washington, DC, it will take approximately two years to satisfy all the requirements of the program, including the residency in Washington, DC, and the program's classroom, didactic, and research productivity requirements described in paragraphs (c), (d), and (e).

At the same time, NIDRR generally agrees with the commenter that it may be difficult for a grantee to require each of its fellows to complete a two-year training program, especially those fellows who are not residential fellows as described in paragraph (f).

Changes: NIDRR has modified paragraph (b) of the priority to require that applicants design a two-year policy research fellowship program that fulfills all the required functions of an ARRT and, to the extent possible, to ensure that fellows complete the full program.

Final Priority

Advanced Rehabilitation Research Policy Fellowship

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for an ARRT on Rehabilitation Research Policy. This priority fellowship program will expand the capacity of disability and rehabilitation researchers and scholars to conduct rigorous policy research that addresses issues important to policymakers and practitioners and that contributes to improved outcomes for individuals with disabilities and increased use and adoption of research findings to help shape future disability-related policy. The ARRT must contribute to improving the capacity of disability and rehabilitation researchers to conduct policy research by:

(a) Recruiting and selecting qualified candidates, including individuals with

disabilities, for advanced research training on policy issues affecting one of NIDRR's three domains of individual well-being: (1) Community living and participation, (2) employment, or (3) health and function;

(b) Designing a two-year training program in advanced rehabilitation and disability policy-related research and analysis that is multidisciplinary, emphasizes scientific methods, and involves didactic and classroom instruction in current rehabilitation and disability policy issues; providing a disability policy research practicum experience; and, to the extent practical, ensuring that fellows complete the full program;

(c) Providing academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host institution or another training or sponsoring organization. Other institutions or organizations used as training sites must have the staff and facilities on-site to provide a suitable environment for performing high-quality rehabilitation-related policy research;

(d) Providing opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings, as appropriate for the individuals' areas of study and levels of experience;

(e) Requiring that all Rehabilitation Research Policy Fellows complete a policy research project related to the NIDRR domains selected by the applicant (community living and participation, employment, or health and function); and

(f) Ensuring that at least two fellows are residential fellows and that each residential fellow spend the equivalent of one year in Washington, DC to conduct research at Congress or any relevant Federal department or agency of the fellow's choice within the Federal Executive or Legislative branch. Fellows must secure their own fellowship site placement.

Note 1: The costs associated with providing this residential policy practicum are the responsibility of the grantee, and must be reflected in the applicant's proposed budget.

Note 2: The grantee must ensure that fellows funded under this program are informed about the anti-lobbying requirements of Federal funding.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their 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 and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the

potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years, as projects similar to the one envisioned by the final priority have been completed successfully. The new ARRT will strengthen the capacity of the disability and rehabilitation fields to train researchers to conduct advanced policy research in the areas of rehabilitation and disability.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 16, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–17109 Filed 7–18–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Advanced Rehabilitation Research and Training (ARRT) Program—Advanced Rehabilitation Research Policy Fellowship Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133P–5.

DATES:

Applications Available: July 21, 2014.
Deadline for Letter of Intent to Apply: August 18, 2014.
Date of Pre-Application Meeting: August 11, 2014.
Deadline for Transmittal of Applications: September 2, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. The program is also intended to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Advanced Rehabilitation Research Training Program

The purpose of NIDRR's ARRT program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to provide advanced research training and experience to individuals with doctorates or similar degrees who have clinical or other relevant experience. ARRT projects train rehabilitation researchers, including researchers with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act, and that improve the effectiveness of services authorized under the Rehabilitation Act. Additional information on the ARRT program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#ARRT.*

Priority: This priority is from the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Advanced Rehabilitation Research Policy Fellowship Program.

Note: The full text of this priority is included in the notice of final priority for this program published elsewhere in this issue of the **Federal Register**.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2)(A).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350. (d) The notice of final priority published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.
Estimated Available Funds: $150,000.
Maximum Award: $150,000.

We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program as follows: CFDA number 84.133P–5.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent To Apply: Due to the broad nature of the priority in this competition, and to assist with the selection of reviewers for this competition, NIDRR is requesting all potential applicants to submit a letter of intent (LOI). The submission is not mandatory and the content of the LOI will not be peer reviewed or otherwise used to rate an application.

Each LOI should be limited to a maximum of four pages and include the following information:

(1) The title of the proposed project, the name of the applicant, the name of the Project Director or Principal Investigator (PI), and the names of partner institutions and entities;

(2) A brief statement of the vision, goals, and objectives of the proposed project and a description of its activities at a sufficient level of detail to allow NIDRR to select potential peer reviewers;

(3) A list of proposed project staff including the Project Director or PI and key personnel;

(4) A list of individuals whose selection as a peer reviewer might constitute a conflict of interest due to involvement in proposal development, selection as an advisory board member, co-PI relationships, etc.; and

(5) Contact information for the Project Director or PI.

Submission of an LOI is not a prerequisite for eligibility to submit an application.

Applicants should submit the optional LOI by mail (either through the U.S. Postal Service or a commercial carrier) or by email to: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue, Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202, email: *marlene.spoencer@ed.gov*. The optional LOI should be submitted no later than August 18, 2014.

For further information regarding the LOI submission process, contact Marlene Spencer at (202) 245–7532.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 100 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. You are not required to double space titles, headings, footnotes, references, captions, or text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

Note 1: Please submit an appendix that lists every collaborating organization and individual named in the application, including staff, consultants, contractors, and advisory board members. We will use this information to help us screen for conflicts of interest with our reviewers.

Note 2: An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) (Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

Applications Available: July 21, 2014.

Deadline for Letter of Intent to Apply: August 18, 2014.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on August 11, 2014. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or to arrange for an individual consultation, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Deadline for Transmittal of Applications: September 2, 2014. Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing

SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Advanced Rehabilitation Research Policy Fellowship ARRT competition, CFDA Number 84.133P–5, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for this ARRT competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133P).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number.

This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors. You will be given an opportunity to correct any errors and resubmit your application, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

These emails do not mean that your application is free of any disqualifying errors. It is your responsibility to ensure that your submitted application has met all of the Department's requirements, including submitting all attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format, as described in this notice and in the application instructions.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an

explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133P–5), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133P–5), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of

this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through a review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDRR funding) that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new NIDRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports for these reviews.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made "substantial progress toward meeting the objectives in its approved application." This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

For Further Information Contact: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll-free, at 1–800–877–8339.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 16, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–17110 Filed 7–18–14; 8:45 am]

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Part III

Nuclear Regulatory Commission

10 CFR Parts 30, 32, and 35
Medical Use of Byproduct Material—Medical Event Definitions, Training and Experience, and Clarifying Amendments; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 32, and 35

[NRC–2008–0175]

RIN 3150–AI63

Medical Use of Byproduct Material—Medical Event Definitions, Training and Experience, and Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations related to the medical use of byproduct material. In this action the NRC addresses three ongoing rulemaking projects and several other related topics. First, this rule proposes amendments to the reporting and notification requirements for a medical event for permanent implant brachytherapy. Second, the rule proposes changes to the training and experience (T&E) requirements for authorized users, medical physicists, Radiation Safety Officers, and nuclear pharmacists; to the requirements for measuring molybdenum (Mo) contamination and reporting of failed technetium and rubidium generators; and to allow Associate Radiation Safety Officers to be named on a medical license. Third, the rule proposes changes to address a request filed in a petition for rulemaking (PRM), PRM–35–20, to exempt certain board-certified individuals from certain T&E requirements (i.e., "grandfather" these individuals) so they may be identified on a license or permit for materials and uses that they performed on or before October 24, 2005, the expiration date of the prior T&E requirements.

DATES: Submit comments by November 18, 2014. Submit comments specific to the information collections aspects of this proposed rule by August 20, 2014. Comments received after these dates will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before these dates.

ADDRESSES: You may submit comments by any one 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–2008–0175. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422, email: *Carol.Gallager@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us directly at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on accessing information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Neelam Bhalla, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–0978, email: *Neelam.Bhalla@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Need for the Regulatory Action and Legal Authority

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations related to the medical use of byproduct material. These regulations were last amended in their entirety in 2002. Over the last 12 years, stakeholders and members of the medical community have identified certain issues in implementing these regulations. As a result, the NRC is proposing changes to update its regulations to address technological advances and changes in medical procedures. The proposed rule would also enhance patient safety. The NRC is proposing to revise parts 30, 32, and 35 of Title 10 of the *Code of Federal Regulations* (10 CFR) under the legal authority granted to the NRC by the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553.

B. Major Provisions

- The proposed rule would establish separate requirements for identifying and reporting medical events (ME) involving permanent implant brachytherapy programs. These new regulations would require reporting of an event in which there is actual or potential harm to a patient resulting from an ME. Additionally, licensees would be required to develop, implement, and maintain procedures for determining if an ME has occurred, including, for permanent implant brachytherapy, procedures for making certain assessments within 60 days from the date the treatment was performed;
- Training and experience requirements would be amended in multiple sections to remove the requirement to obtain a written attestation for an individual who is certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. This requirement is being removed because the NRC has determined that certification by a specialty board, coupled with meeting the recentness of training requirements, is sufficient to demonstrate that an individual seeking authorization on a license has met the training and experience (T&E) requirements and has the requisite current knowledge and that additional attestation by a preceptor is therefore unnecessary. Individuals who are not board certified would still need to obtain a written attestation; however, the language of the attestation would be modified. Additionally, residency program directors would be able to provide these written attestations;
- The requirements for measuring the Mo-99 concentration for elutions of Mo-99m/Tc generators would be changed and reporting requirements added for failed Mo-99/Tc-99m and strontium-82 (Sr-82)/Rb-82 generators. The current requirement to measure the Mo-99 concentration after the first eluate would be changed to require that the Mo-99 concentration be measured in each eluate because of several incidents reported to the NRC of breakthrough; and
- Licensees would be allowed to appoint a qualified individual with expertise in certain uses of byproduct material to be named on a license to serve as an Associate Radiation Safety Officer (ARSO). This would make it easier for an individual to become a Radiation Safety Officer (RSO) on other medical licenses and would increase the number of individuals who would be available to serve as preceptors for individuals seeking to be appointed as RSOs or ARSOs.

Additionally, the proposed rule would address the issues raised in a petition for rulemaking (PRM–35–20) that was submitted to the NRC in 2006. The petition requested that experienced board-certified RSOs and medical

physicists not named on a license who had practiced certain modalities prior to October 24, 2005, be exempt from the specific T&E requirements in 10 CFR 35.50 and 35.51, respectively. In effect, they would be "grandfathered" for these training requirements for the modalities that they practiced as of October 24, 2005. This petition is discussed in detail in Section III, Petition for Rulemaking, PRM–35–20, of this document.

C. Costs and Benefits

The NRC has not established a quantitative cutoff for defining an economically significant regulatory action. The NRC assumes "significant" impact if the ratio of annualized costs to estimated annual gross revenues for a licensee exceeds 1 percent. The proposed rule would have an estimated $8.3 million implementation cost for the medical community. This cost would be spread over the 7,845 impacted licensees for an average implementation cost of approximately $1,100 per licensee. The NRC assumes that all affected licensees have annual revenues greater than $110,000. Therefore, the estimated cost impacts do not exceed the 1 percent criterion for "significant" impacts, and the proposed rule appears not to be an economically significant regulatory action. It would cost the NRC approximately $400,000 to implement this rule.

The benefits of this proposed rule are associated with potentially reducing unnecessary radiation exposure to patients, potentially reducing requirements for T&E, and potentially affording more latitude to licensees. The proposed rule would also update, clarify, and strengthen the existing regulatory requirements, and thereby promote public health and safety.

A draft regulatory analysis has been developed for this proposed rulemaking and is available for public comment (see Section XVI, Regulatory Analysis, of this document).

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2008–0175 when contacting the NRC about the availability of information for this proposed rule. You may access publicly-available information related to this proposed rule by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0175.
- NRC's Agencywide Documents Access and Management System (ADAMS):

You may access publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *"ADAMS Public Documents"* and then select *"Begin Web-based ADAMS Search."* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2008–0175 in the subject line of your comment submission, to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as 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. Background

The NRC published a final rule in the **Federal Register** on April 24, 2002 (67 FR 20250), that revised the medical use regulations in part 35 of Title 10 of the *Code of Federal Regulations* (10 CFR) in their entirety. The training and experience (T&E) requirements in 10 CFR part 35 were further revised through an additional rulemaking, "Medical Use of Byproduct Material—Recognition of Specialty Boards," published in the **Federal Register** on March 30, 2005 (70 FR 16336).

In implementing the current regulations in 10 CFR part 35, the NRC staff, stakeholders, and the Advisory Committee on the Medical Uses of Isotopes (ACMUI) have identified numerous issues that need to be addressed through the rulemaking process.

As a result, the NRC is proposing to amend its regulations in 10 CFR part 35 to address these issues. The proposed rule would modify the written directive (WD) requirements in 10 CFR 35.40 and the medical event (ME) reporting in 10 CFR 35.3045 to establish separate ME reporting criteria for permanent implant brachytherapy. The proposed rule would accordingly also modify the requirements for procedures for administrations requiring a WD in 10 CFR 35.41 to require licensees to develop written procedures for determining if an ME has occurred as a result of any administrations requiring a WD, including permanent implant brachytherapy.

Currently, the ME criteria for brachytherapy implants in 10 CFR 35.3045, "Report and Notification of a Medical Event," are based on the dose administered to the patient. The proposed amendment would establish separate ME criteria for permanent implant brachytherapy in terms of the

total source strength administered (activity-based) rather than the dose delivered (dose-based). The ME criteria would also include absorbed doses to normal tissues located outside of the treatment site as well as within the treatment site. The proposed amendments are based on the staff recommendations contained in SECY–12–0053, "Recommendations on Regulatory Changes for Permanent Implant Brachytherapy Programs" (ADAMS Accession No. ML12072A306).

The NRC previously published a proposed rule, "Medical Use of Byproduct Material—Amendments/ Medical Event Definitions," to revise ME definitions for permanent implant brachytherapy in the **Federal Register** on August 6, 2008 (73 FR 45635), for public comment. The majority of commenters were in agreement to convert the ME criteria from dose-based to activity-based. However, during late summer and early fall of 2008, a substantial number of MEs involving permanent implant brachytherapy were reported to the NRC. Based on the circumstances involving the MEs reported in 2008, the staff re-evaluated the previously published proposed rule and developed a reproposed rule.

In SECY–10–0062, "Reproposed Rule: Medical Use of Byproduct Material—Amendments/Medical Event Definitions," dated May 18, 2010 (ADAMS Accession No. ML100890121), the staff requested the Commission to approve for publication the revised proposed rule for public comment. Prior to Commission voting on the reproposed rule, a Commission briefing was held on the reproposed rule on July 8, 2010 (ADAMS Package Accession No. ML101930532). The presenters included a member of the ACMUI, a representative from the Organization of Agreement States (OAS), a physician from the American Brachytherapy Society, the National Director of the Radiation Oncology Program of the Department of Veterans Affairs, a representative from the American Association of Physicists in Medicine (AAPM), and a representative from Us-TOO (a support group for prostate cancer patients). The presenters urged the Commission not to publish the reproposed rule as developed. They believed that MEs should be based on events of potential clinical significance and recommended that the NRC seek stakeholder input in revising this rule.

In Staff Requirements Memorandum (SRM) SECY–10–0062, dated August 10, 2010 (ADAMS Accession No. ML102220233), the Commission disapproved the staff's recommendation to publish the reproposed rule and directed the staff to work closely with the ACMUI and the broader medical and stakeholder community to develop ME definitions that would protect the interests of patients and allow physicians the flexibility to take actions that they deem medically necessary, while continuing to enable the agency to detect failures in process, procedure, and training, as well as any misapplication of byproduct materials by AUs. The NRC is addressing the issues in the reproposed rule (RIN 3150–AI26) in this proposed rulemaking; for more information, including public comments submitted on the earlier rule, see Docket ID NRC–2008–0071 on *www.regulations.gov*. The SRM also directed the staff to hold a series of stakeholder workshops to discuss issues associated with the ME definition.

Following Commission direction, the NRC conducted two workshops in the summer of 2011. These facilitated workshops were held in New York, New York, in June 2011 (ADAMS Accession No. ML111930470), and in Houston, Texas, in August 2011 (ADAMS Accession No. ML112900094). The NRC staff also requested the ACMUI to prepare a report on ME definitions for permanent implant brachytherapy. In February 2012, the ACMUI submitted its final revised report to the NRC (ADAMS Accession No ML12038A279). The staff used the recommendations in the ACMUI revised final report, along with the substantial input from stakeholders, to develop the recommendations in SECY–12–0053, which provided the regulatory basis for the ME definitions in this proposed rule.

In addition to revising the ME definitions for permanent implant brachytherapy, the NRC is proposing to amend its regulations in 10 CFR part 35 to revise the preceptor attestation requirements, require increased frequency of testing for measuring Mo-99 concentration in a Mo-99/Tc-99m generator, require reporting of failed tests of a Mo-99/Tc-99m generator and failed strontium-82 (Sr-82) and strontium-85 (Sr-85) tests of a Rb-82 generator, allow ARSOs to be named on a medical use license, extend the 5-year inspection frequency for a gamma stereotactic radiosurgery unit to 7 years, and to make several clarifying amendments.

Finally, the proposed rule would address issues that were raised in PRM–35–20 (ADAMS Accession No. ML062620129) filed by E. Russell Ritenour, Ph.D., on behalf of the AAPM on September 13, 2006. The petition requested that the training requirements for experienced RSOs and medical physicists in 10 CFR 35.57 be amended to recognize board certified physicists and RSOs as "grandfathered" for the modalities that they practiced as of October 24, 2005. The following section discusses the petition in detail.

III. Petition for Rulemaking, PRM–35–20

The NRC has incorporated into this proposed rulemaking the resolution of PRM–35–20 filed by E. Russell Ritenour, Ph.D. (the petitioner), dated September 10, 2006, on behalf of the AAPM. A notice of receipt and request for comments on this petition was published in the **Federal Register** on November 1, 2006 (71 FR 64168).

The petitioner requested that 10 CFR 35.57, "Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist," be revised to: (1) Recognize medical physicists certified by either the American Board of Radiology or the American Board of Medical Physics on or before October 24, 2005, as "grandfathered" for the modalities that they practiced as of October 24, 2005, independent of whether or not a medical physicist was named on an NRC or an Agreement State license as of October 24, 2005; and (2) recognize all diplomates certified by the named boards in former subpart J of 10 CFR part 35, which was removed from 10 CFR part 35 in a rulemaking dated March 30, 2005 (70 FR 16336), as RSOs who have relevant timely work experience (even if they have not been formally named as an RSO). The petitioner requested that experienced board-certified RSOs and medical physicists not named on a license who had practiced certain modalities prior to October 24, 2005, be exempted from the specific T&E requirements in 10 CFR 35.50, and 35.51, respectively. In effect, they would be "grandfathered" for these training requirements for the modalities that they practiced as of October 24, 2005. The petitioner was concerned that as a result of the amendments to the T&E regulations in 2005, an individual could become authorized on a license only if he or she had been certified by a specialty board whose certification process was recognized under the new regulations by the NRC or an Agreement State or was already identified on an existing NRC or Agreement State license. If the individual had been certified prior to the effective date for recognition of the certifying board but had not been listed on a license, he or she would not be "grandfathered," and would have to obtain training through

the so-called "alternate pathway," which establishes the specific training requirements for the non-certified individuals. The petitioner did not believe that it was the intent of the Commission to deny recognition to individuals currently practicing or to minimize the importance of certification by a certifying board. The NRC received 168 comments from professional organizations and individuals on the petition. The majority of the commenters supported the petition.

The NRC reviewed the petitioner's request and comments received on the petition and concluded that revisions made to the regulations in 2005 may have inadvertently affected a group of board certified professionals insofar as they may now have to use the alternate pathway option to demonstrate that they meet the T&E requirements in 10 CFR part 35 rather than the certification pathway for recognition on an NRC license as an RSO or an authorized medical physicist (AMP) (73 FR 27773; May 14, 2008). Therefore, the NRC concluded that the issues raised in the petition would be considered in the rulemaking process if a regulatory basis could be developed to support a rulemaking.

In October 2008, the NRC staff sent letters to all of the certifying boards whose certification processes are currently recognized by the NRC and to certifying boards previously named in the former 10 CFR part 35, subpart J, whose certification processes currently are not recognized by the NRC. To determine the scope of the medical community that might be negatively impacted by the T&E grandfathering provisions of the regulations, the NRC asked each organization to provide the number and percentage of its currently active diplomates who are not grandfathered under 10 CFR 35.57 by virtue of not being named on a license or permit. The organizations were asked to include individuals who are now or may in the future be seeking to be named as an RSO, AMP, AU, or authorized nuclear pharmacist (ANP) on an NRC or an Agreement State medical use license. Based on the responses, the NRC estimates that as many as 10,000 board certified individuals may have been affected by the 2005 T&E rulemaking.

Accordingly, the NRC believes that these individuals should be eligible for grandfathering for the modalities that they practiced as of October 24, 2005, and that their previously-acceptable qualifications for authorized status should continue to be adequate and acceptable from a health and safety standpoint such as to allow them to continue to practice using the same modalities. This proposed rule, in response to the petition, would amend § 35.57 to recognize all individuals that were previously certified by boards recognized under the previous 10 CFR part 35, subpart J, as RSOs, teletherapy or medical physicists, AMPs, AUs, nuclear pharmacists, and ANPs for the modalities that they practiced as of October 24, 2005.

The petitioner, in his support for "grandfathering" the RSOs who have relevant work experience and were not formally named on an NRC or an Agreement State license or permit as an RSO, stated that these individuals will be required to provide preceptor attestations. In this proposed rulemaking, the NRC would eliminate the requirement for preceptor attestations for all individuals certified by NRC recognized boards. The NRC believes that attestations are not necessary in this particular situation because the provisions of § 35.59, "Recentness of training," require that the T&E must have been obtained within the 7 years preceding the date of application, or the individual must have had related continuing education and experience since the required T&E was completed. The "grandfathered" individuals would fall under the provisions of § 35.59 and would need to provide evidence of continued education and experience. Therefore, the NRC believes that preceptor attestations are not warranted for these "grandfathered" individuals so long as the provisions of § 35.59 are met and the individual requests authorizations only for the modalities the individual practiced as of October 24, 2005.

IV. Discussion

A. What action is the NRC proposing to take?

In implementing the current regulations in 10 CFR part 35, the NRC staff, stakeholders, and the ACMUI identified numerous issues that need to be addressed through the rulemaking process. The proposed revisions would clarify the current regulations, and provide greater flexibility to licensees without compromising patient, worker, and public health and safety. The proposed amendments include:

a. Adding separate ME definitions for permanent implant brachytherapy.

b. Amending preceptor attestation requirements.

c. "Grandfathering" certain board-certified individuals (PRM–35–20) discussed in Section III, Petition for Rulemaking, PRM–35–20, of this document.

d. Requiring increased frequency of testing to measure Mo-99 breakthrough.

e. Requiring reporting and notification of failed Mo-99/Tc-99m and Sr-82/Rb-82 generators.

f. Allowing ARSOs to be named on a medical use license.

g. Additional issues and clarifications.

Early public input on this proposed rule was solicited through various mechanisms. For certain amendments the NRC posted preliminary draft rule text (ADAMS Accession No. ML111390420) for a 75-day comment period on *www.regulations.gov*. The availability of the draft rule language was noticed in the **Federal Register** on May 20, 2011 (76 FR 29171). The NRC received 10 comment letters, which are also posted on *www.regulations.gov* under Docket ID NRC–2008–0175. The NRC staff reviewed the comments and considered them in developing the proposed rule text.

The proposed amendments and preliminary draft rule text were also discussed at the two transcribed facilitated public workshops that were conducted in New York City, New York, on June 20–21, 2011, and in Houston, Texas, on August 11–12, 2011. The purpose of the workshops was to solicit key stakeholder input on topics associated with definition of an ME, including the requirements for reporting and notifications of MEs for permanent implant brachytherapy, and on other medical issues that are being considered in the proposed rulemaking. These workshops were initiated as a result of the Commission's direction to staff in SRM–SECY–10–0062 to work closely with the ACMUI and the medical community to develop event definitions that would protect the interests of patients. The Commission also directed that these definitions should allow physicians the flexibility to take actions that they deem medically necessary, while preserving the NRC's ability to detect misapplications of radioactive material and failures in processes, procedures, and training. The panelists for the workshops included representation from the ACMUI, Agreement States, professional societies, and a patients' rights advocate.

The major proposed revisions are:

a. Adding Separate ME Definitions for Permanent Implant Brachytherapy

The proposed rule would establish separate ME definitions and reporting requirements for permanent implant brachytherapy programs. As explained in Section II, Background, of this document, the proposed amendments are based on the recommendations developed in close cooperation with the

ACMUI, as well as with substantial input from various stakeholders. During its meeting in March 2004, the ACMUI recognized the existing inadequacy of defining MEs with regard to permanent implant brachytherapy. The ACMUI explained that for these implants, the plus or minus 20 percent variance from the prescription criterion in the existing rule was only appropriate if both the prescription and the variance could be expressed in units of activity, rather than in units of dose, as there is no suitable clinically used dose metric available for judging the occurrence of MEs. In June 2005, the ACMUI recommended that new language should be developed to define MEs related to permanent implant brachytherapy.

In SECY–05–0234, "Adequacy of Medical Event Definitions in 10 CFR 35.3045, and Communicating Associated Risks to the Public," dated December 27, 2005 (ADAMS Accession No. ML053180408), based on recommendations received from the ACMUI, the staff recommended that for permanent implant brachytherapy the Commission approve the staff's plan to revise the ME definitions and the associated requirements for WDs to be activity-based, instead of dose-based. In SRM–SECY–05–0234, dated February 15, 2006 (ADAMS Accession No. ML060460594), the Commission directed the staff to proceed directly with the development of a proposed rule to modify both the WD requirements in 10 CFR 35.40(b)(6) and the ME reporting requirements in 10 CFR 35.3045 for permanent implant brachytherapy medical use, to convert from dose-based to activity-based ME criteria.

As discussed in Section II, Background, of this document, a proposed rule was published in the **Federal Register** on August 6, 2008 (73 FR 45635). Due to the substantial number of MEs reported in 2008, the staff submitted a reproposed rule to the Commission for consideration in May of 2010. However, the Commission disapproved the staff's recommendations and directed the staff to work closely with the ACMUI and the broader medical and stakeholder community to develop ME definitions and to hold a series of stakeholder workshops to discuss issues associated with the MEs.

The ACMUI Permanent Implant Brachytherapy Subcommittee (PIBS) issued a report, with recommendations, which was unanimously approved by the ACMUI at its October 20, 2010, meeting (ADAMS Accession No. ML103540385). The PIBS report included the caveat that it was to be considered an interim report and that it might be revised in response to additional stakeholder input. The ACMUI meeting in April 2011 was devoted to issues associated with the ME definition. The meeting was webcast, providing an opportunity for further public involvement on this issue.

The ACMUI final report (ADAMS Accession No. ML11292A139), which revised the earlier interim report on prostate brachytherapy regulation, was provided to the NRC following the ACMUI October 18, 2011, teleconference public meeting. The final report reflected the principal positions and recommendations provided by participants during the NRC public workshops; in particular, the report included the recommendation to change from dose-based ME criteria for the treatment site to source-strength based criteria. The final report included a quantitative metric, the "octant approach," for determining that a distribution of implanted sources was irregular enough (i.e., demonstrating "bunching") to consider the procedure as an ME. The final report also included a dose-related ME criterion for the treatment site.

However, in a letter to the Chairman of the ACMUI dated November 30, 2011 (ADAMS Accession No. ML11341A051), the American Society for Radiation Oncology (ASTRO) expressed criticism of the ACMUI final report. The ASTRO considered the ME definition recommended by the ACMUI to be complex, difficult to regulate, and likely to cause confusion in practice. Consequently, a revised final report (ADAMS Accession No. ML12038A279) that simplified the ME criteria for the treatment site, and removed the "octant approach" and direct reference to absorbed dose, was issued by the PIBS. The revised final report was, with minor modification, approved by the ACMUI during its February 7, 2012, teleconference public meeting and was subsequently, in a letter to the Chairman of the ACMUI (ADAMS Accession No. ML12044A358), characterized as an improvement by ASTRO.

The staff used the recommendations in the ACMUI revised final report, along with the substantial input from stakeholders gathered in the two facilitated public workshops and the three ACMUI public meetings in 2011 and early 2012, to develop the recommendations conveyed to the Commission on April 6, 2012, in SECY–12–0053. In a Commission meeting held April 24, 2012 (ADAMS Accession No. ML12116A294), participating representatives from ACMUI, ASTRO, and American Brachytherapy Society (ABS) endorsed the recommendations for modification of the requirements in 10 CFR 35.40 and 35.3045 that are contained in SECY–12–0053. The NRC notes that ASTRO and ABS representatives suggested eliminating the criterion for ME reporting, which requires reporting of excessive dose to normal tissue structures within the treatment site. However, this ACMUI-recommended ME reporting criterion for normal tissue structures located within the treatment site was retained in SECY–12–0053 because ACMUI and the staff determined there needs to be some form of ME reporting criterion for overdosing of normal tissue structures located within the treatment site.

The ACMUI recommendations, as approved by the Commission in SRM–SECY–12–0053, "Recommendations on Regulatory Changes for Permanent Implant Brachytherapy Programs" (ADAMS Accession No. ML122260211), are applicable to all permanent implant brachytherapy procedures using radioactive sources for all treatment sites.

Consistent with the ACMUI recommendations, all of the proposed ME criteria reflect circumstances in which there is actual or potential harm to a patient resulting from an ME. The proposed ME criteria are primarily source-strength based for the treatment site, and dose-based for the absorbed dose to normal tissues. The proposed ME criteria for permanent implant brachytherapy are:

(1) For the treatment site (documented in the pre-implantation portion of the WD), an ME has occurred if 20 percent or more of the implanted sources documented in the post-implantation portion of the WD are located outside of the intended implant location.

In supporting this recommendation, the NRC believes that source strength/positioning is the measurable metric/surrogate for dose, as related to harm/potential harm for permanent brachytherapy implant MEs. The 20 percent variance limit (from physician intention) is consistent with the recommendation of the ACMUI for all medical uses of byproduct material as described in SECY–05–0234.

(2) For normal-tissue structures, an ME has occurred if: (a) For structures located outside of the treatment site (for example the bladder or rectum for prostate implant treatments), the dose to the maximally exposed 5 contiguous cubic centimeters of tissue exceeds 150 percent of the absorbed dose prescribed to the treatment site in the pre-implantation portion of the WD; or (b) for intra-target normal structures, the

maximum absorbed dose to any 5 contiguous cubic centimeters of tissue exceeds 150 percent of the dose the tissue would have received based on the approved pre-implant dose distribution.

The size of the normal tissue, 5 cubic centimeters, is based on ACMUI's recommendation in its report. In its recommendation, the ACMUI stated that the 5 contiguous cubic centimeters dose-volume specification avoids the high variation in dose sometimes seen in point doses and has cited literature to support that as being a relevant quantity for toxicity. In this proposed rule, the NRC is specifically inviting comments on the selection of the specified volume of the normal tissues located both outside and within the treatment site in defining MEs.

The proposed rule specifies that these dose determinations must be made within 60 days from the date the treatment was administered unless accompanied by written justification about patient unavailability after treatment. The NRC believes that 60 days provides adequate time to make implanted source location and dose assessments to determine if an ME has occurred. The AAPM, in its Task Group Report 137, entitled, "AAPM recommendations on dose prescription and reporting methods for permanent interstitial brachytherapy for prostate cancer," recommends that post-implant dosimetry for iodine-125 implants should be performed at 1 month (plus or minus 1 week) after the procedure. For palladium-103 and cesium-131 implants, it recommends that post-implant dosimetry be performed at 16 (plus or minus 4) days and 10 (plus or minus 2) days, respectively. The 60-day time limit is also consistent with the ACMUI recommendation. The NRC recognizes that some patients may not be able to return to the treatment center for the dose assessment, and the proposed rule addresses that concern by adding "unless accompanied by written justification about patient unavailability."

Because of this dose-based ME criterion for organs and tissues other than the treatment site, there is an implicit operational requirement for post-implant imaging, as strongly recommended during the public workshops and as practiced in most clinical facilities.

(3) An ME has occurred if a treatment involves: (a) Using the wrong radionuclide; (b) delivery to the wrong patient or human research subject; (c) source(s) implanted directly into the wrong site or body part, i.e., not in the treatment site identified in the WD; (d) using leaking sources; or (e) a 20 percent or more error in calculating the total source strength documented in the pre-implantation WD (plus or minus 20 percent is used for the ME threshold for source strength variance because plus or minus 10 percent is considered too close to the actual variance associated with this quantity in clinically acceptable implant procedures).

The proposed criterion related to sources implanted directly into the wrong site or body part (i.e., not in the treatment site identified in the WD) directly reflects an ACMUI recommendation. Note that the proposed criterion would require that even a single sealed source directly delivered to the wrong treatment site would constitute an ME that must be reported. However, this proposed criterion is not more restrictive than the current regulation, which requires reporting of a dose of 0.5 sievert (50 rem) to an organ or tissue, since the localized dose associated with even one misplaced source would far exceed the current 0.5 sievert (50 rem) dose threshold.

The current WD requirements for manual brachytherapy in § 35.40(b)(6) primarily reflect requirements associated with temporary implant brachytherapy medical use. The WD requirements in § 35.40 would be amended to establish separate WD requirements appropriate for permanent implant brachytherapy. The WD for permanent implant brachytherapy would consist of two portions: The first portion of the WD would be prepared before the implantation, and the second portion of the WD would be completed after the procedure, but before the patient leaves the post-treatment recovery area. For permanent implant brachytherapy, the WD portion prepared before the implantation would require documentation of the treatment site, the radionuclide, the intended absorbed dose to the treatment site, and the corresponding calculated source strength to deliver that dose. If the treatment site has normal tissues located within it, the WD would also allow documentation of the expected absorbed dose to normal tissue as determined by the AU. The post-implantation portion of the WD would require the documentation of the number of sources implanted, the total source strength implanted, the signature of an AU for § 35.400 uses for manual brachytherapy, and the date. It would not require the documentation of dose to the treatment site.

Based on ACMUI input and information gained at public workshops, the NRC understands that the final WD documentation related to these § 35.40 permanent implants must reflect the medical situation encountered during the surgical procedure. Therefore, in defining an ME involving the treatment site for permanent implants, the NRC based the criterion for an ME on the percentage of implanted sources that are outside the treatment site as documented in the post-implantation portion of the WD rather than defining an ME based on a comparison of the implanted total source strength to the calculated total source strength documented in the pre-implantation portion of the WD. This proposed definition differs from the ME definition for all other brachytherapy procedures where the dose comparisons are made with what was prescribed in the WD prepared/revised before the procedure.

Conforming changes would be made to § 35.41, "Procedures for administrations requiring a written directive," to include permanent implant brachytherapy. Although the current § 35.41(a)(2) requires licensees to determine if the administration is in accordance with the written directive, there is no specific requirement that a licensee determine that an administered dose or dosage has met an ME criterion defined in § 35.3045. The ME reporting criteria are defined in § 35.3045, but the current regulations do not require that a licensee have procedures to make that determination. Section 35.41 would be amended to require that a licensee include procedures for determining if an ME has occurred. For all permanent implant brachytherapy, this section would also be amended to require that a licensee develop additional procedures to include an evaluation of the placement of sources as documented in the completion portion of the WD, dose assessments to maximally exposed 5 contiguous cubic centimeters of normal tissue located both inside and outside of the treatment site, and to include that these assessments be made within 60 days from the date the treatment was performed.

Currently § 35.3045, Report and notification of a medical event, is designated as Compatibility Category C for the Agreement States. Input provided at the public meetings conducted in New York City, New York, on June 20–21, 2011, and in Houston, Texas, on August 11–12, 2011, and from the ACMUI prompted the NRC to revisit compatibility category. The Commission, after considering the issue, is proposing that the compatibility for reporting MEs for the Agreement States be designated as a Compatibility Category B.

Additional information on Agreement State compatibility designations can be

found in Section VIII, Agreement State Compatibility, of this document.

b. Amending Preceptor Attestation Requirements

The current regulations in 10 CFR part 35 provide three pathways for individuals to satisfy T&E requirements to be approved as an RSO, AMP, ANP, or AU. These pathways are: (1) Approval of an individual who is certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State (certification pathway); (2) approval based on an evaluation of an individual's T&E (alternate pathway); or (3) identification of an individual's approval on an existing NRC or Agreement State license.

Under both the certification and the alternate pathway, an individual seeking authorization for medical byproduct material must obtain written attestation signed by a preceptor with the same authorization. The attestation must state that the individual has satisfactorily completed the necessary T&E requirements and has achieved a level of competency sufficient to function independently in the position for which authorization is sought.

During a briefing held on April 29, 2008 (ADAMS Accession No. ML12116A294), with the Commission, the ACMUI recommended that the attestation requirements be revised. The ACMUI expressed concern that the existing requirements have had unintended consequences that, if not corrected, would impact the availability of authorized individuals; i.e., there would likely be a shortage of authorized individuals to provide medical care as a result of the reluctance of preceptors to sign attestations. The ACMUI recommended that attestations be eliminated for the board certification pathway. In the ACMUI's view, by meeting the board requirements, a curriculum and a body of knowledge can be defined, and progress toward meeting defined requirements can be measured. Further, the ACMUI asserted that a board certification indicates that the T&E requirements have been met, and the Maintenance of Certification provides ongoing evidence of current knowledge. Therefore, the ACMUI argued that an additional attestation for the board certified individuals was not needed.

The ACMUI also recommended that the attestation requirements associated with the alternate pathways be modified to delete the requirement for an attestation of an individual's radiation safety-related competency being sufficient to function independently as an authorized person for the medical uses being requested. The reason for the recommendation was that the ACMUI believed that signing an attestation of competence results in a perceived risk of personal liability on the part of the individual signing the attestation and that preceptors are reluctant to accept this risk.

In addition, the ACMUI recommended that the attestation submitted under the alternate pathway be considered acceptable if provided by a residency program director representing a consensus of an authoritative group, irrespective of whether the program director personally met the requirements for authorized user status. The ACMUI advised that training of residents is a collective process and entails the collective judgment of an entire residency program faculty, whereas preceptor attestation is an individual process, and an individual preceptor typically would provide only a small portion of the T&E.

Following the April 29, 2008, meeting of the ACMUI, in an SRM dated May 15, 2008 (ADAMS Accession No. ML081360319), the Commission directed the staff to work with the ACMUI and the Agreement States to provide recommendations to the Commission with regard to amending the NRC's requirements for preceptor attestation for both board certified individuals and for individuals seeking authorization via the alternate pathway. The staff was also directed to consider additional methods, such as the attestation being provided by consensus of an authoritative group.

Following both consideration of the position of the ACMUI, which the staff determined was clear and consistent with its long-held position on this issue, and interactions with regional NRC staff and the Agreement States, the staff provided its recommendations on this issue to the Commission on November 20, 2008, in SECY–08–0179, "Recommendations on Amending Preceptor Attestation Requirements in 10 CFR part 35, Medical Use of Byproduct Material" (ADAMS Accession No. ML083170176). The staff recommended that the Commission approve development of the following modifications to the 10 CFR part 35 attestation requirements: (1) Eliminate the attestation requirement for individuals seeking authorized status via the board certification pathway; (2) retain the attestation requirement for individuals seeking authorized status via the alternate pathways; however, replace the text stating that the attestation demonstrates that the individual "has achieved a level of competency to function independently" with alternative text such as "has demonstrated the ability to function independently" to fulfill the radiation safety-related duties required by the license; and (3) accept attestations from residency program directors, representing consensus of residency program faculties as long as at least one member of the residency program faculty is an authorized individual in the same category as that requested by the applicant seeking authorized status.

In an SRM dated January 16, 2009, to SECY–08–0179 (ADAMS Accession No. ML090160275), the Commission approved these recommendations and directed the staff to develop the proposed rule language for the attestation requirements for the alternate pathway in concert with the ACMUI and the Agreement States.

The proposed changes to remove the attestation requirement for board certified individuals were broadly supported during the public workshops conducted in the summer of 2011. The panelists (which included members of the ACMUI and the Agreement States) at the workshops recommended that the NRC should remove the requirement for attestation for board certified individuals. They believed that board certification coupled with the recentness of training requirements should be sufficient for the regulator's needs. With regard to the language of attestation (for the alternate pathway), they believed that the preceptors should not be attesting to someone's competency; rather, they should be attesting to the individual's T&E necessary to carry out one's responsibility independently. At the April 2011 ACMUI meeting, the ACMUI advised that the attestation language should be revised to say that the individual has received the requisite T&E to fulfill the radiation safety-related duties required by the license. The proposed rule language reflects this approach.

The proposed rule would amend T&E requirements in multiple sections of 10 CFR part 35 with regard to the attestation requirements in accordance with the staff's recommendations in SECY–08–0179.

c. Extending Grandfathering to Certain Certified Individuals (PRM–35–20)

The petition is discussed in Section III, Petition for Rulemaking (PRM–35–20), of this document.

d. Requiring Increased Frequency of Testing To Measure Mo-99 Breakthrough

Current regulations in § 35.204(a) prohibit a licensee from administering a radiopharmaceutical to humans that exceeds 0.15 microcuries of Mo-99 per millicurie of Tc99m. Section 35.204(b) requires that a licensee that uses Mo-99/Tc-99m generators for preparing a Tc-99m radiopharmaceutical measure the Mo-99 concentration of the first eluate to demonstrate compliance with the specified concentrations; however a generator can be eluted several times to obtain Tc-99m for formulating radiopharmaceuticals for patient use.

The Mo-99 breakthrough, which exceeds the permissible concentration listed in § 35.204(a), may cause unnecessary radiation exposures to patients. The administration of higher levels of Mo-99 could potentially affect health and safety, as well as have an adverse effect on nuclear medicine image quality and medical diagnosis.

Generator manufacturers have always recommended testing each elution prior to use in humans. Before 2002, § 35.204 required a licensee to measure the Mo-99 concentration of each eluate. However, the NRC revised § 35.204 in April 2002 because the medical and pharmaceutical community considered frequency of Mo breakthrough to be a rare event. Therefore, the Commission decided that measuring only the first elution was necessary to detect manufacturing issues or generators that may have been damaged in transport.

From October 2006 to February 2007, and again in January 2008, medical licensees reported to the NRC that numerous generators had failed the Mo-99 breakthrough tests. Some licensees reported the failed tests in the first elution, while some reported an acceptable first elution but failed subsequent elutions. One generator manufacturer voluntarily reported 116 total elution test failures in 2008. Based upon the numerous reports of failed Mo-99 breakthrough measurements noted in the subsequent elutions, the NRC proposes to amend § 35.204 to return to the pre-2002 performance standard, which required licensees to measure the Mo-99 concentration for each elution of the Mo-99/Tc-99m generator.

e. Requiring Reporting and Notification of Failed Mo-99/Tc-99m and Sr-82/Rb-82 Generators

The regulations do not currently require reporting to the NRC when an elution from a Mo-99/Tc-99m or Sr-82/Rb-82 generator exceeds the regulatory limit in § 35.204(a). As discussed in this section, eluates from generators for making Tc-99m radioactive drugs exceeded the permissible concentration listed in § 35.204(a) on numerous occasions in 2006, 2007, and 2008. Additionally, in 2011, contamination issues with Sr-82/Rb-82 generators were discovered when several individuals were identified with unexpected levels of Sr-82 and Sr-85. These individuals had undergone Rb-82 chloride cardiac scanning procedures several months before and had received these radionuclides in levels greatly in excess of the administration levels permitted in § 35.204 for Sr-82/Rb-82 generators. Further investigations showed that at least 90 individuals at one facility and 25 at another facility received levels of Sr-82 or Sr-85 that exceeded the levels permitted in § 35.204. Of these patients, at least three had levels of Sr-82 and Sr-85 high enough to result in reportable MEs as defined in § 35.3045.

Because the reporting of a failed generator is voluntary, the NRC had difficulty determining the extent of the problem. Reporting of results in excess of the levels in § 35.204 for the Sr-82/Rb-82 generators could have alerted users and regulators to issues associated with these generators and possibly reduced the number of patients exposed to excess Sr-82 and Sr-85 levels. Breakthrough of Mo-99, Sr-82 and Sr-85 contamination can lead to unnecessary radiation exposure to patients.

The NRC proposes to add a new reporting requirement related to breakthrough of Mo-99, and Sr-82 and Sr-85 contamination. This new reporting requirement in § 35.3204(a) would require a licensee to report to the NRC and the manufacturer or distributor of medical generators within 30 days any measurement that exceeds the limits specified in § 35.204(a).

f. Allowing ARSOs To Be Named on a Medical Use License

Currently, § 35.24(b) requires a licensee's management to appoint an RSO who, in writing, agrees to be responsible for implementing the radiation protection program. However, the regulations in 10 CFR part 35 do not allow the naming of more than one permanent RSO on a license.

During an ACMUI meeting in June 2007 (ADAMS Accession No. ML072060526), concern was expressed that this restriction has been contributing to a shortage of available RSOs to serve as preceptors. The ACMUI stated that the restriction has been creating a situation in which an individual who is qualified and performing the same duties as an RSO cannot be recognized or listed as an RSO, and that it has been creating a situation in which an individual working as a contractor RSO at several hospitals or other licensed locations is unable to have actual day-to-day oversight at the various facilities.

The proposed rule would amend the regulations in 10 CFR part 35 to allow a licensee to appoint a qualified individual with expertise in certain uses of byproduct material to serve as an ARSO. This individual would be required to complete the same T&E requirements as the named RSO for the individual's assigned sections of the radiation safety program. The ARSOs would have oversight duties for the radiation safety operations of their assigned sections, while reporting to the named RSO. The proposed regulation would continue to allow a licensee to name only one RSO on a license. The RSO would continue to be responsible for the day-to-day oversight of the entire radiation safety program. Similarly, a licensee with multiple operating locations could appoint a qualified ARSO at each location where byproduct material is used; however, the named RSO would remain responsible for the overall licensed program. Under the proposed rule, the ARSO would be named on the license for the types of use of byproduct material for which this individual has been assigned duties and tasks by the RSO.

The NRC believes that allowing an ARSO to be named on a license would increase the number of individuals who would be available to serve as preceptors for individuals seeking to be appointed as RSOs or ARSOs. Also, by being named on a license, an ARSO could more easily become an RSO on other licenses for the types of uses for which the ARSO is qualified.

In addition, the current regulations allow AUs, AMPs and ANPs to serve as the RSO only on the license for which they are listed. Because AUs, AMPs and ANPs must meet the same requirements to serve as the RSO regardless of which Commission medical license they are identified on, the NRC believes that it is overly restrictive to not allow them to serve as an RSO on any Commission medical license. Therefore, a modification is proposed that would allow an AU, AMP, or ANP listed on any license or permit to serve as an RSO or ARSO. This proposed change would increase the number of individuals available to serve as RSOs and ARSOs on NRC medical licenses. Additionally, these ARSOs and RSOs could serve as preceptors for an individual seeking to be named as the RSO.

The proposed change to allow an ARSO to be named on a license was

broadly supported during the public workshops conducted in the summer of 2011. The T&E requirements for an ARSO were discussed, and stakeholders strongly supported the NRC's position that the ARSOs must meet the same qualifications as the RSO for their assigned sections of the radiation safety program.

The proposed rule would amend multiple sections of 10 CFR part 35 to accommodate the new ARSO position.

g. Additional Issues and Clarifications

There are additional amendments, which are discussed in Section V, Discussion of Proposed Amendments by Section, of this document.

B. When would these actions become effective?

Generally, the NRC allows an adequate time (30 to 180 days) for a final rule to become effective. The time for the final rule to become effective depends on the scope of the rulemaking, availability of the conforming guidance, and the complexity of the final rule. With regard to this proposed rule, the NRC proposes that the final rule would become effective 180 days from its publication in the **Federal Register**.

C. Are there any cumulative effects of regulation associated with this rule?

Cumulative effects of regulation (CER) describes the challenges that licensees, certificate holders, States, or other entities may encounter while implementing new regulatory requirements (e.g., rules, generic letters, orders, backfits, inspection findings). The CER is an organizational effectiveness challenge that results from a licensee or impacted entity implementing a significant number of new and complex regulatory actions stemming from multiple regulatory actions, within a limited implementation period and with available resources (which may include limited available expertise to address a specific issue). The CER can potentially distract licensee or entity staff from executing other primary duties that ensure safety or security. The NRC is specifically requesting comment on the cumulative effects of this rulemaking. In developing comments on CER, consider the following questions:

(1) In light of any current or projected CER challenges, does the proposed rule's effective date, compliance date, or submittal date(s) provide sufficient time to implement the proposed requirements, including changes to programs, procedures, and the facility?

(2) If current or projected CER challenges exist, what should be done to address this situation (e.g., if more time is required to implement the new requirements, what period of time would be sufficient)?

(3) Do other (NRC, Agreement States, or other agency) regulatory actions (e.g., orders, generic communications, license amendment requests, and inspection findings of a generic nature) influence the implementation of the proposed requirements?

(4) Are there unintended consequences? Does the proposed rule create conditions that would be contrary to the proposed rule's purpose and objectives? If so, what are the consequences and how should they be addressed?

(5) Please comment on the NRC's cost and benefit estimates in the regulatory analysis that supports this proposed rule. The draft regulatory analysis is available in ADAMS under Accession No. ML14184A620.

D. Is the NRC requesting comments on other specific issues?

(1) Volume for determining an absorbed dose to normal tissue for MEs under § 35.3045, Report and notification of a medical event.

Two new criteria for determining if a licensee must report an ME involving permanent implant brachytherapy have a dose-volume specification for an absorbed dose to normal tissue. One proposed criterion is for normal tissue within the treatment site (such as the urethra in prostate implants) and the other proposed criterion is for normal tissue outside the treatment site (such as the bladder or the rectum in prostate implants).

The proposed volume, 5 contiguous cubic centimeters of normal tissue, is based on the recommendations from the ACMUI (ADAMS Accession No. ML12038A279). In its recommendation, the ACMUI stated that the 5 contiguous cubic centimeters dose-volume specification avoids the high variation in dose sometimes seen in point doses and has literature to support it being a relevant quantity for toxicity to an organ at risk.

Because the majority of permanent implants are performed to treat prostate cancer, examples and guidance for the ACMUI recommendations related extensively to that procedure. However, the proposed rule is intended to apply generally to all forms of permanent implants.

The NRC is seeking specific comments, in defining MEs, on the proposed volume of 5 contiguous cubic centimeters dose-volume specification for an absorbed dose to normal tissue located both outside and within the treatment site.

The NRC is also seeking specific comments on whether the application of the proposed medical event definition for normal tissue based on the absorbed dose to the maximally exposed 5 contiguous cubic centimeters during permanent implant brachytherapy is appropriate for all potential treatment modalities, or whether it may result in unintended consequences for tissues or organs adjacent to the treatment site.

(2) Implementation Period.

In Section IV.B of this document, the NRC is proposing the effective date of the final rule to be 180 days from the date it is published in the **Federal Register**. The NRC is seeking specific comments on whether a 180 day effective date for the final rule is sufficient to communicate the changes to all practitioners, revise procedures, train on them, and implement the changes.

(3) Impact on Clinical Practice.

The NRC is seeking comments on whether any of the proposed changes in this rulemaking are likely to discourage licensees from using certain therapy options or otherwise adversely impact clinical practice, and if so, how.

(4) Compatibility Category for the Agreement States on § 35.3045, *Report and notification of a medical event.*

Currently § 35.3045, Report and notification of a medical event, is designated as Compatibility Category C for the Agreement States. This designation means the essential objectives of the requirement should be adopted by the State to avoid conflicts, duplications, or gaps. The manner in which the essential objectives are addressed in the Agreement State requirements need not be the same as NRC requirements, provided the essential objectives are met. Under Compatibility Category C, Agreement States may require the reporting of MEs with more restrictive criteria than those required by the NRC.

Some medical licensees have multiple locations, some of which are NRC-regulated and some which are Agreement State-regulated. These licensees would prefer a Compatibility Category B designation for uniformity of practice and procedures among their different locations. A Compatibility Category B designation is for those program elements that apply to activities that have direct and significant effects in multiple jurisdictions.

The OAS has expressed a strong desire to retain a dose-based ME reporting criterion for the treatment site if NRC regulations are revised to include

source-strength based criteria for determining MEs for permanent implant brachytherapy. The OAS has no objection to the introduction of the source-strength based criteria, as long as the dose-based criteria can be retained by the Agreement States, which requires § 35.3045 to remain as Compatibility Category C. With a Compatibility Category C designation, the Agreement States could require both the dose-based criterion and source-strength based criterion, as long as the Agreement State reports to the NRC only include the information required by the NRC.

For some Agreement States, Compatibility Category B is difficult to achieve because their regulations have to also meet specific state requirements based on the state agencies in which the radiation control regulators reside. Also, Agreement States may have existing laws requiring the collection of additional information on medical diagnostic and therapy procedures.

If the level of compatibility for § 35.3045 were to be raised to Compatibility Category B, Agreement State requirements would need to be essentially identical to those of the NRC. Compatibility Category B is applied to requirements that have significant direct transboundary health and safety implications. A Compatibility Category B designation would prevent the Agreement State requirements from including any additional requirements, such as diagnostic reports, shorter reporting times, or lower dose limits for reporting.

The ACMUI in its report to the NRC (ADAMS Accession No. ML13071A690), recommended that MEs related to permanent implant brachytherapy be designated as Compatibility Category B. The ACMUI was concerned with proposed designation as Compatibility Category C which would allow the Agreement States to retain the dose-based criteria for definition of an ME for permanent implant brachytherapy. The ACMUI asserted that a Compatibility Category C would continue to result in clinically insignificant occurrences being identified as MEs by Agreement States and thereby perpetuate the confusion associated with the current dose-based criteria. The ACMUI stated that the most important component of the rationale for conversion from dose-based to activity-based criteria is the failure of dose-based criteria to sensitively and to only specifically capture clinically significant MEs in permanent implant brachytherapy.

Because of these divergent positions (the OAS favoring Compatibility Category C and some medical use licensees and the ACMUI favoring Compatibility Category B), the NRC invites comments on the appropriate compatibility category for ME reporting under § 35.3045.

In responding to these issues, please use one of the methods described in Section I, Obtaining Information and Submitting Comments, of this document.

E. What should I consider as I prepare my comments to the NRC?

Tips for preparing your comments. When submitting your comments, remember to:

i. Identify the rulemaking (RIN 3150-AI63; NRC–2008–0175).

ii. Explain why you agree or disagree with the proposed rule; suggest alternatives and substitute language for your requested changes.

iii. Describe any assumptions and provide any technical information and/or data that you used.

iv. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

v. Provide specific examples to illustrate your concerns, and suggest alternatives.

vi. Explain your views as clearly as possible.

vii. Make sure to submit your comments by the comment period deadline identified.

viii. The NRC is particularly interested in your comments concerning the following issues: Sections IV.C and D. of this document request comment on the cumulative effects of regulation, Whether the proposed volume for determining an absorbed dose to normal tissue for MEs is appropriate and applicable for all potential treatment modalities related to permanent implant brachytherapy, the proposed 180-day effective date for the final rule, the proposed rule's impact on clinical practice, and Compatibility Category for the Agreement States on § 35.3045, *Report and notification of a medical event;* Section X of this document requests comment on the use of plain writing; Section XIV requests comment on the draft environmental assessment; Section XV of this document requests comment on the information collection requirements; Section XVI of this document requests comment on the draft regulatory analysis; and Section XVII of this document requests comment on the impact of the proposed rule on small businesses.

V. Discussion of Proposed Amendments by Section

Section 30.34 Terms and Conditions of Licenses

Paragraph (g). A new requirement would be added requiring radiopharmacy licensees to report to the NRC the results of testing of generator elutions for Mo-99 breakthrough or Sr-82 and Sr-85 contamination that exceed the permissible concentration listed in § 35.204(a). Reporting would be in accordance with the reporting and notifications in § 35.3204. While the proposed reporting requirement as well as the requirement to test every elution is new, the testing by licensees of the first elution to ensure that it does not exceed the permissible concentration listed in § 35.204(a) and recording the results of these tests is already required by this paragraph.

This change is being proposed to provide the information to allow the NRC to assess a potential situation quickly and efficiently when issues occur with generators that may cause unwarranted radiation exposure to patients. This issue is discussed further in Section IV, Discussion, of this document.

Section 32.72 Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Byproduct Material for Medical Use Under 10 CFR Part 35

Paragraph (a)(4). This paragraph would be modified to clarify that the applicant "commits to" rather than "satisfies" the label requirements. Committing to the prescriptive labeling requirements in the regulation in the license application would remove ambiguity related to what must appear on the label.

Paragraph (b)(5)(i). This paragraph would be amended to remove the requirement to obtain a written attestation for individuals seeking to be named as an ANP and who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State to be an ANP. This is a conforming change in support of the removal of the attestation requirement in § 35.55(a) of this chapter for a board certified ANP.

Paragraph (d). The existing requirements in paragraph (d) would be redesignated as (e), and a new paragraph (d) would be added to clarify that the labeling requirements that applicants commit to in paragraph (a) of this section are also applicable to current licensees.

Section 35.2 Definitions

New definitions for *Associate Radiation Safety Officer* and for *Ophthalmic physicist* would be added to this section and the definition for *Preceptor* would be amended.

The new definition for *Associate Radiation Safety Officer* would identify the requirements an individual would need to meet to be recognized as an ARSO. These requirements include that the individual must meet the specified T&E criteria and that the individual be currently listed as an ARSO on a medical license or permit for the types of use of byproduct material for which the individual had been assigned tasks and duties by the RSO. Additional information on ARSOs is located in Section IV, Discussion, of this document.

The new definition for *Ophthalmic physicist* would identify the requirements an individual would need to meet to be recognized as an ophthalmic physicist. These requirements include that the individual must meet the specified T&E criteria in § 35.433(a)(2) and that the individual must be currently listed as an ophthalmic physicist on a specific medical use license issued by the Commission or an Agreement State or a medical use permit issued by a Commission master material licensee. A written attestation would not be required for this individual.

The definition for *Preceptor* would be amended to add ARSO to the list of individuals who provide, direct, or verify T&E required for an individual to become an AU, an AMP, an ANP, or an RSO. This is a conforming change in support of the new definition for *Associate Radiation Safety Officer*.

Section 35.12 Application for License, Amendment, or Renewal

This section would be amended to remove the requirement to submit copies of NRC Form 313, Application for Material License, or a letter containing information required by NRC Form 313 when applying for a license, an amendment, or renewal. This section would clarify what information should be submitted and add a requirement to submit information on an individual seeking to be identified as an ARSO or as an ophthalmic physicist.

Paragraph (b)(1). As part of the application for a medical use license, this paragraph would be amended to remove the requirement to submit an additional copy of NRC Form 313. This change would relieve the burden on the applicant by requiring less paperwork to be submitted. It would also require the applicant to submit the T&E qualifications for one or more ARSOs and ophthalmic physicists that are to be identified on the license.

Paragraph (c). For license amendments or renewals, this paragraph would be amended to remove the requirement to submit a copy of NRC Form 313 or a letter containing information required by NRC Form 313. This change would relieve the burden on the licensee by requiring less paperwork to be submitted. Additionally, it would clarify that the letter submitted in lieu of NRC Form 313 must contain all the information required by NRC Form 313.

Paragraph (d). This paragraph would be amended and restructured to clarify what information must be included in an application for a license or amendment for medical use of byproduct material as described in § 35.1000.

Section 35.13 License Amendments

This section would be amended by revising paragraph (b), redesignating paragraphs (d) through (g) as paragraphs (e) through (h), revising redesignated paragraphs (g) and (h), and adding new paragraphs (d) and (i).

Paragraph (b). The paragraph would be amended to allow a licensee to permit an individual to work as an ophthalmic physicist before applying for a license amendment, provided that the individual is already listed on a medical license or permit. The definition of an *Ophthalmic physicist* in § 35.2 would allow the ophthalmic physicist to be named only on a specific medical use license and not on a broad scope medical license. This limitation is to ensure that individuals seeking to be named as an ophthalmic physicist have their T&E reviewed by a regulatory authority as the position is new and unfamiliar to the medical community. Additionally, broad scope licensees already have ready access to AMPs to perform the requirements listed in § 35.433.

Paragraph (d). This new paragraph would be added to require a licensee to apply for and receive a license amendment before permitting an individual to work as an ARSO or before the RSO assigns different tasks and duties to an ARSO currently authorized on the license.

Paragraph (i). This new paragraph would be added to this section to allow a licensee to receive sealed sources from a new manufacturer or a new model number for a sealed source listed in the Sealed Source and Device Registry (SSDR) used for manual brachytherapy for quantities and isotopes already authorized by its license without first seeking a license amendment. This change is proposed to provide manual brachytherapy licensees greater flexibility in obtaining the sealed sources necessary for patient treatments in a timely manner.

Section 35.14 Notifications

Paragraph (a). The paragraph would be restructured to separate the notification requirements for an individual who is certified by a board that is recognized by the NRC or an Agreement State from the requirements for an individual who is not certified by a board that is recognized by the NRC or an Agreement State but is listed on a license. Additionally, the requirement to provide a written attestation is removed for an individual who is certified by a board that is recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document. Licensees may not permit an individual who is not certified by a board that is recognized by the NRC or an Agreement State or does not meet the requirements in § 35.13(b) to work under their license without first obtaining an amendment to their license.

Paragraph (a)(1). This paragraph would be restructured to more clearly identify the verification that a board certified individual would need to provide along with a copy of the individual's board certification. This proposed change does not impose any new requirements.

Paragraph (a)(2). This paragraph would retain the notification requirements for individuals who are authorized to work under § 35.13(b) who are not certified by a board that is recognized by the NRC or an Agreement State but are listed on a license. These individuals would be only authorized for the materials and uses for which they were previously authorized. This proposed change does not impose any new requirements.

Paragraph (b)(1). This paragraph would be amended to require a licensee to notify the Commission within 30 days after an ARSO or ophthalmic physicist has a name change or discontinues performance of their duties under the license.

Paragraph (b)(6). This new paragraph would require a licensee to notify the NRC no later than 30 days after receiving a sealed source from a new manufacturer or a new model number listed in the SSDR for manual brachytherapy for quantities and

isotopes already authorized by the license.

Section 35.24 Authority and Responsibilities of the Radiation Protection Program

This section would be amended to allow licensees to appoint qualified individuals with expertise in certain uses of byproduct material to be named as ARSOs on a license or permit.

Paragraph (b). This paragraph would be modified to specify that a licensee's management may appoint one or more ARSOs. These appointed ARSOs would have to be named on a medical license or permit for the types of use of byproduct material for which the RSO, with the written agreement of the licensee's management, would assign tasks and duties.

The licensee's management would still be limited to naming one RSO who would remain responsible for implementing the entire radiation protection program. The RSO would be prohibited from delegating authority and responsibilities for implementing the radiation protection program. Each ARSO would have to agree in writing to the tasks and duties assigned by the RSO.

Paragraph (c). An administrative change would be made to this paragraph to remove the phrase "an authorized user or" as it is redundant with "an individual qualified to be a Radiation Safety Officer under 35.50 and 35.59" in the same sentence.

The proposed position of ARSO is discussed further in Section IV, Discussion, of this document.

Section 35.40 Written Directives

Paragraph (b) of this section would be restructured and amended to accommodate specific requirements for a WD for permanent implant brachytherapy. Existing paragraph (b)(6) would be redesignated as paragraph (b)(7) and a new paragraph (b)(6) would be added to specify the information that must be included in the pre-implantation (before implantation) and post-implantation (after implantation) portions of the WD for permanent implant brachytherapy.

Paragraph (b)(6). This new paragraph would detail the specific WD requirements for permanent implant brachytherapy. Specifically, it would clarify that the WD is divided into two portions, i.e., the pre-implantation portion and the post-implantation portion. The pre-implantation WD portion would require documentation of the treatment site, the radionuclide, the intended absorbed dose to the treatment site, and the corresponding calculated source strength to deliver that dose. If the treatment site has normal tissues located within it (such as the urethra in prostate implants), the WD would also allow documentation of the expected absorbed dose to normal tissue as determined by the AU. The information required by the pre-implantation portion of the WD must be documented prior to the start of the implantation and cannot be modified once the implantation begins. The proposed rule would retain the current provision that an AU could revise an existing WD in writing or orally before the implantation begins.

The post-implantation portion of the WD would require the documentation of the number of sources implanted, the total source strength implanted, the signature of an AU for § 35.400 uses for manual brachytherapy, and the date. It would not require the documentation of dose to the treatment site. The information required by the post-implantation portion of the WD must be documented before the patient leaves the post-treatment recovery area. The term "post-treatment recovery area," as used in paragraph (b)(6)(ii), means the area or place where a patient recovers immediately following the brachytherapy procedure before being released to a hospital room or, in the case of an outpatient treatment, released from the licensee's facility.

Paragraph (c) of this section would be restructured for clarity.

Section 35.41 Procedures for Administrations Requiring a Written Directive

This section would be amended by adding two new paragraphs with requirements that the licensee must address when developing, implementing, and maintaining written procedures to provide high confidence that each administration requiring a WD is in accordance with the WD.

Paragraph (b)(5). This new paragraph would require that the licensee's procedures for any administration requiring a WD must include procedures for determining if an ME, as defined in § 35.3045 of this part, has occurred.

Paragraph (b)(6). This new paragraph would require the licensee to develop specific procedures for permanent implant brachytherapy programs. At a minimum, the procedures would include determining post-implant source position verification and normal tissue dose assessment within 60 calendar days from the date the implant was performed. If the licensee cannot make these determinations within the 60 calendar days because the patient is not available, then the licensee would have to provide written justification that these determinations could not be made due to patient unavailability.

The determinations that would be required include: (1) The total source strength administered outside of the treatment site compared to the total source strength documented in the post-implantation portion of the WD; (2) the absorbed dose to the maximally exposed 5 contiguous cubic centimeters of normal tissue located outside of the treatment site; and 3) the absorbed dose to the maximally exposed 5 contiguous cubic centimeters of normal tissue located within the treatment site.

The NRC is proposing this change because the current regulations do not have a defined time within which the licensee must determine if the implantation of radioactive sealed sources was done as prescribed in the WD. The occurrence of a substantial number of MEs in 2008 underscored the need to add this requirement to the regulations, as post-implant source position verifications and normal tissue dose assessments for some of these MEs were not determined for more than a year after the patient was treated. The NRC believes that these determinations must be made in a timely manner to ensure that patients and their physicians have information upon which to base decisions regarding remedial and prospective health care.

A 60-calendar-day time frame is proposed to ensure that the licensee has ample time to make arrangements for the required determinations. These determinations would be used to partially assess if an ME, as defined in § 35.3045, has occurred.

Section 35.50 Training for Radiation Safety Officer

Multiple changes to this section are proposed. They include amending the title of the section to add "and Associate Radiation Safety Officer" as the T&E requirements for this new position would also be made applicable to the ARSO. Other changes proposed are: (1) Removing the requirement to obtain a written attestation for individuals qualified under paragraph (a) of this section; (2) adding a provision that would allow individuals identified as an AU, AMP, or ANP on a medical license to be an RSO or an ARSO not only on that current license but also on a different medical license; (3) adding a provision to allow an individual to be named simultaneously both as the RSO and AU on a new license application; and 4) certain administrative clarifications.

Paragraph (a). The requirement for individuals seeking to be named as an RSO or ARSO to obtain a written attestation would be removed for those individuals who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Individuals seeking to be named as RSOs or ARSOs via the certification pathway would still need to meet the training requirements in the new paragraph (d) of this section. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (b)(1)(ii). This paragraph is amended to allow an ARSO, in addition to the RSO, to provide supervised work experience for individuals under the alternate pathway. The ARSO would be limited to providing supervised work experience in those areas for which the ARSO is authorized on a medical license or permit.

Paragraph (b)(2). Reserved paragraph (b)(2) would be revised to contain the requirements for an RSO or ARSO under the alternate pathway to obtain a written attestation signed by either an RSO or ARSO. The language that is required in the written attestation would be amended to state that the individual "is able to independently fulfill the radiation safety-related duties as an RSO or ARSO," rather than that the individual "has achieved a level of radiation safety knowledge to function independently" as an RSO or ARSO.

Paragraph (c)(1). This paragraph would be modified to allow medical physicists who have been certified by a specialty board whose process has been recognized by the Commission or an Agreement State under § 35.51(a) to be named as ARSOs. Additionally, the requirement for a written attestation for these medical physicists is removed. A medical physicist seeking to be named as an RSO or an ARSO would still need to meet the training requirements in paragraph (d) of this section.

Paragraph (c)(2). This paragraph would be modified to allow AUs, AMPs, and ANPs identified on a Commission or an Agreement State medical license or permit to be an RSO or ARSO on any Commission or an Agreement State license or Commission master material permit provided that the AU, AMP, or ANP has experience with the radiation safety aspects of similar types of use of byproduct material. The current regulations limit AUs, AMPs and ANPs to serve as an RSO only on the license on which they are listed.

The AUs, AMPs and ANPs must meet the same requirements to serve as the RSO regardless of which Commission medical license they are identified on; therefore, not allowing them to serve as an RSO on any Commission medical license is overly restrictive. This change would increase the number of individuals available to serve as RSOs and ARSOs on NRC medical licenses.

Paragraph (c)(3). This new paragraph would allow an individual who is not named as an AU on a medical license or permit, but is qualified to be an AU, to be named simultaneously as the RSO and the AU on the same new medical license. Current regulations, under § 35.50(c)(2), do not permit an individual who is not an AU on a license, but qualified to be an AU, to be an RSO. The individual must have the experience with the radiation safety aspects of the byproduct material for which the authorization is sought. An individual may meet the qualifications of an AU via the board certification or alternate pathway. An individual who is using the alternate pathway to be named simultaneously as the RSO and the AU on the same new medical license must obtain a written attestation.

The provision would provide flexibility for an individual to serve as both an AU and as the RSO on a new medical license and would make medical procedures more widely available, especially in rural areas.

Paragraph (d). This paragraph would be amended to include ARSOs as individuals who can provide supervised training to an individual seeking recognition as an RSO or ARSO.

Section 35.51 Training for an Authorized Medical Physicist

Paragraph (a). The requirement for individuals seeking to be named as an AMP to obtain a written attestation would be removed for those individuals who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (a)(2)(i). This paragraph would be amended to clarify that an AMP who provides supervision for meeting the requirements of this section, be certified in medical physics by a specialty board whose certification process has been recognized under this section by the Commission or an Agreement State.

Current regulations allow a medical physicist with any board certification in diagnostic or therapeutic medical physics to serve as a supervising medical physicist in therapeutic procedures. The NRC believes that the supervision for therapeutic procedures must be provided by a medical physicist who is certified in medical physics by a specialty board recognized under § 35.51 by the Commission or an Agreement State.

Paragraph (b)(2). The wording in this paragraph would be revised to conform to the removal of the attestation requirement in paragraph (a) of this section. It would also be amended to incorporate the new language that the written attestation would verify that the individual is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AMP.

Section 35.55 Training for an Authorized Nuclear Pharmacist

Paragraph (a). The requirement for individuals seeking to be named as an ANP to obtain a written attestation would be removed for those individuals who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State.

Paragraph (b)(2). The wording in this paragraph would be revised to conform to the removal of the attestation requirement in paragraph (a) of this section. It would also be amended to incorporate the new language that the written attestation would verify that the individual is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an ANP.

Section 35.57 Training for Experienced Radiation Safety Officer, Teletherapy or Medical Physicist, Authorized Medical Physicist, Authorized User, Nuclear Pharmacist, and Authorized Nuclear Pharmacist

Multiple changes to this section are proposed. Most of the proposed changes are to the T&E requirements in response to the requested amendments in the Ritenour petition. This includes recognizing the board certifications of individuals certified by boards recognized under subpart J, which was removed from 10 CFR part 35 in a rulemaking dated March 30, 2005 (70 FR 16336), and making administrative clarifications. Additional information on the Ritenour petition, as it relates to this rulemaking, is located in Section IV, Discussion, of this document.

Paragraph (a)(1). This paragraph would be modified to add AMPs and ANPs identified on a Commission or an Agreement State license or a permit issued by a Commission or an Agreement State broad scope licensee or master material license permit or by a

master material license permittee of broad scope on or before October 24, 2005, as individuals that would not need to comply with the training requirements of §§ 35.50, 35.51, or 35.55, respectively. In addition, the date is changed for individuals named on a license as RSOs, teletherapy or medical physicists, AMPs, nuclear pharmacists, or ANPs from October 24, 2002, to October 24, 2005, because during the 3-year time frame applicants could have qualified under the now removed subpart J or the new T&E requirements under §§ 35.50, 35.51, or 35.55.

However, under the proposed rule, RSOs and AMPs identified by this paragraph would have to meet the training requirements in §§ 35.50(d) or 35.51(c) as appropriate, for any materials or uses for which they were not authorized prior to the effective date of the rule. This is not a new training requirement. Current regulations require individuals qualifying under §§ 35.50 and 35.51 as RSOs and AMPs to meet the training requirements in § 35.50(e) and § 35.51(c). Individuals excepted by this paragraph would still need to meet the recentness-of-training requirements in § 35.59.

Paragraph (a)(2). This paragraph would recognize individuals certified by the named boards in the now-removed subpart J of 10 CFR part 35 on or before October 24, 2005, who would not need to comply with the training requirements of § 35.50 to be identified as an RSO or as an ARSO on a Commission or an Agreement State license or Commission master material license permit for those materials and uses that these individuals performed on or before October 24, 2005. Individuals excepted by this paragraph would still need to meet the recentness-of-training requirements in § 35.59 and, for new materials and uses, the training requirements in § 35.50(d).

Paragraph (a)(3). This paragraph would recognize individuals certified by the named boards in the now-removed subpart J of 10 CFR part 35 on or before October 24, 2005, who would not need to comply with the training requirements of § 35.51 to be identified as a AMP on a Commission or an Agreement State license or Commission master material license permit for those materials and uses that these individuals performed on or before October 24, 2005. Removal of subpart J from 10 CFR part 35 was effective on October 24, 2005. These individuals would be exempted from these training requirements only for those materials and uses these individuals performed on or before October 24, 2005. Individuals excepted by this paragraph would still need to meet the recentness-of-training requirements in § 35.59 and, for new materials and uses, the training requirements in § 35.51(c).

Paragraph (a)(4). This paragraph would be renumbered from current paragraph (a)(3) and not be revised.

Paragraph (b)(1). This paragraph would be amended to change the date an individual named on a license as an AU from October 24, 2002, to October 24, 2005, because during that 3-year time frame, an applicant could have qualified as an AU either under the former subpart J or the revised T&E requirements in subparts D through H of 10 CFR part 35.

Additionally, the paragraph would be amended to clarify that an individual authorized before, rather than just on, October 24, 2005, would not be required to comply with the T&E requirements in subparts D through H of 10 CFR part 35 for those materials and uses that they performed on or before that date.

Paragraph (b)(2). This paragraph would be restructured and expanded to recognize a physician, dentist, or podiatrist who was certified by the named boards in the now-removed subpart J of 10 CFR part 35 on or before October 24, 2005, and who would not need to comply with the training requirements of subparts D through H of 10 CFR part 35 to be identified as an AU on a Commission or an Agreement State license or Commission master material license permit for those materials and uses that the individual performed on or before October 24, 2005. Removal of subpart J from 10 CFR part 35 was effective on October 24, 2005. An individual excepted from the T&E requirements by this paragraph would still need to meet the recentness-of-training requirements in § 35.59.

Section 35.65 Authorization for Calibration, Transmission, and Reference Sources

This section would be restructured and amended to include two new paragraphs.

Paragraph (b)(1). This new paragraph would require that medical use of any byproduct material authorized by this section can only be used in accordance with the requirements in § 35.500. This is a clarification that all of the specified byproduct material for medical use must be under the supervision of an AU.

Paragraph (b)(2) This new paragraph would prohibit the bundling or aggregating of single-sealed sources to create a sealed source with an activity larger than authorized by § 35.65. Sources that consist of multiple single sources (bundling) that exceed the limits authorized by § 35.65 would no longer be regulated under § 35.65, would be treated as one single source, and would have to meet all of the regulatory requirements for that single source including, if appropriate, listing on a specific medical license, leak testing, and security requirements.

Paragraph (c). This new paragraph would clarify that a licensee using calibration, transmission, and reference sources in accordance with the requirements in paragraphs (a) or (b) of this section need not list these sources on a specific medical use license.

Section 35.190 Training for Uptake, Dilution, and Excretion Studies

Paragraph (a). For a physician seeking to be named as an AU of unsealed byproduct material for uses authorized under § 35.100, the requirement to obtain a written attestation would be removed for an individual who is certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (c)(2). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for a physician seeking to be named as an AU of unsealed byproduct material for uses authorized under § 35.100. The residency program director must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.190.

The residency program director who provides written attestations does not have to be an AU who met the requirements in §§ 35.57, 35.190, 35.290, or 35.390, or equivalent Agreement State requirements. However, the director must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.190, 35.290, or 35.390, or equivalent Agreement State requirements, and that the AU concurs with the attestation.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has

achieved a level of competency to function independently, as an AU.

Section 35.204 Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations

Paragraph (b). The current requirement to measure the Mo-99 concentration after the first eluate would be changed to require that the Mo-99 concentration be measured after each elution. A generator can be eluted several times to obtain Tc-99m for formulating radiopharmaceuticals for human use. Current regulations require licensees to measure the Mo-99 concentration only the first time a generator is eluted.

Paragraph (e). This new paragraph would add a requirement that licensees report any measurement that exceeds the limits specified in § 35.204(a) for Mo-99/Tc-99m and Sr-82/Rb-82 generators.

Further discussion on this issue can be found in Section IV, Discussion, of this document.

Section 35.290 Training for Imaging and Localization Studies

Paragraph (a). For physicians seeking to be named as an AU of unsealed byproduct material for uses authorized under § 35.200, the requirement to obtain a written attestation would be removed for those individuals who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (c)(1)(ii). This paragraph would be amended to allow an ANP who meets the requirements in §§ 35.55 or 35.57 to provide the supervised work experience specified in paragraph (c)(1)(ii)(G) of this section for individuals seeking to be named as an AU of unsealed byproduct material for uses authorized under § 35.200. Paragraph (c)(1)(ii)(G) of this section requires supervised work experience in eluting generator systems. Many medical facilities no longer elute generators and receive unit doses from centralized pharmacies; therefore, training on eluting generators is not available at these facilities. ANPs have the T&E to provide the supervised work experience for AUs on the elution of generators.

Paragraph (c)(2). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for individuals seeking to be named as an AU of unsealed byproduct material for uses authorized under §§ 35.100 and 35.200. The residency program director must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.290.

The residency program directors who provide written attestations do not have to be AUs who meet the requirements in §§ 35.57, 35.290, or 35.390 and 35.290(c)(1)(ii)(G), or equivalent Agreement State requirements. However, they must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.290, or 35.390 and 35.290(c)(1)(ii)(G) or equivalent Agreement State requirements, and that the AU concurs with the attestation.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the individual is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

§ 35.300 Use of Unsealed Byproduct Material for Which a Written Directive Is Required

The introductory paragraph would be amended to clarify that a licensee may only use unsealed byproduct material identified in § 35.390(b)(1)(ii)(G) under this section. Currently, § 35.300 states that "A licensee may use any unsealed byproduct material. . .." This change is proposed to clarify that a licensee's authorization of the radiopharmaceuticals requiring a WD is only for those types of radiopharmaceuticals for which the AU has documented T&E. An AU may be authorized for one or more of the specific categories described in § 35.390(b)(1)(ii)(G), but not for all unsealed byproduct material.

Section 35.390 Training for Use of Unsealed Byproduct Material for Which a Written Directive Is Required

Paragraph (a). For physicians seeking to be named as an AU of unsealed byproduct material for uses authorized under § 35.300, the requirement to obtain a written attestation would be removed for those individuals who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (b)(1)(ii)(G). This paragraph would be amended to expand and clarify the categories of parenteral administrations of radionuclides in which work experience is required for an individual seeking to be an AU for uses under § 35.300. Most radionuclides used for parenteral administrations have more than one type of radiation emission. Under the proposed change, the type of radiation emissions of parenteral administrations would be based on the primary use of the radionuclide radiation characteristics. The proposed changes to this paragraph would also further expand the parenteral administration categories to include radionuclides that are primarily used for their alpha radiation characteristics.

The current regulations include a broad category for parenteral administrations of "any other" radionuclide. This broad category would be removed, as any new parenteral administration of radionuclides not listed in this paragraph would be regulated under § 35.1000. This approach would allow the NRC to review each new proposed radionuclide for parenteral administration and determine the appropriate T&E for its use.

Current regulations require physicians requesting AU status for administering dosages of radioactive drugs to humans (including parenteral administration) to have work experience with a minimum of three cases in each category for which they are requesting AU status. This requirement would be retained in the proposed rule with regard to all categories in this paragraph.

Paragraph (b)(2). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for physicians seeking to be named as an AU of unsealed byproduct material for uses authorized under § 35.300. The residency program director must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.300.

The residency program directors who provide written attestations do not have

to be AUs who meet the requirements in §§ 35.57, 35.390, or equivalent Agreement State requirements, or have experience in administering dosages in the same dosage category or categories as the individual requesting AU status. However, they must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.390, or equivalent Agreement State requirements, has experience in administering dosages in the same dosage category or categories as the physicians requesting AU status, and that the AU concurs with the attestation.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

Paragraph (c). This new paragraph is added to clarify that if an individual is a user of any of the parenteral administrations specified in § 35.390(b)(1)(ii)(G) or equivalent Agreement State requirements that individual would be only authorized for that use and not for all of the parenteral administrations. If an individual is seeking authorization for any new type of parenteral administrations then the supervised work experience requirements in paragraph (b)(1)(ii)(G) would have to be met.

Section 35.392 Training for the Oral Administration of Sodium Iodide I–131 Requiring a Written Directive in Quantities Less Than or Equal to 1.22 Gigabecquerels (33 Millicuries)

Paragraph (a). For physicians seeking to be named as an AU for the oral administration of sodium iodide I–131 requiring a WD in quantities less than or equal to 1.22 gigabecquerels (33 millicuries), the requirement to obtain a written attestation would be removed for those individuals who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (c)(3). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for physicians seeking to be named as an AU of unsealed byproduct material for the oral administration of sodium iodide I–131 requiring a WD in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) authorized under § 35.300. The residency program director must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.392.

The residency program directors who provide written attestations do not have to be AUs who meet the requirements in §§ 35.57, 35.390, 35.392, 35.394, or equivalent Agreement State requirements, or have experience in administering dosages as specified in §§ 35.390(b)(1)(ii)(G)(*1*) or 35.390(b)(1)(ii)(G)(*2*). However, they must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.390, 35.392, 35.394, or equivalent Agreement State requirements, and has experience in administering dosages as specified in §§ 35.390(b)(1)(ii)(G)(*1*) or 35.390(b)(1)(ii)(G)(*2*) and that the AU concurs with the attestation.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

Section 35.394 Training for the Oral Administration of Sodium Iodide I–131 Requiring a Written Directive in Quantities Greater Than 1.22 Gigabecquerels (33 Millicuries)

Paragraph (a). For physicians seeking to be named as an AU for the oral administration of sodium iodide I–131 requiring a WD in quantities greater than 1.22 gigabecquerels (33 millicuries), the requirement to obtain a written attestation would be removed for those individuals who are certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (c)(3). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for physicians seeking to be named as an AU of unsealed byproduct material for the oral administration of sodium iodide I–131 requiring a WD in quantities greater than 1.22 gigabecquerels (33 millicuries) authorized under § 35.300. The residency program director must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.394.

The residency program directors who provide written attestations do not have to be AUs who meet the requirements in §§ 35.57, 35.390, 35.394, or equivalent Agreement State requirements, or have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*). However, they must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.390, 35.394, or equivalent Agreement State requirements, and has experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*) and that the AU concurs with the attestation.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

Section 35.396 Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive

Proposed amendments to this section include conforming changes to support the new categories for parenteral administration in § 35.390(b)(1)(ii)(G), changes to allow residency program directors to provide written attestations, and the change to the attestation language. Additionally, the section would be renumbered to accommodate the proposed changes.

Paragraph (a). This paragraph would be amended to revise the categories for parenteral administration of radionuclides listed in § 35.390(b)(1)(ii)(G). The AUs authorized to use any of the categories for parenteral administration of radionuclides in § 35.390(b)(1)(ii)(G) would also have to meet the supervised work experience requirements in paragraph (d)(2) of this section for each new parenteral administration listed in

§ 35.390(b)(1)(ii)(G) for which the individual is requesting AU status.

Paragraph (d)(1). This paragraph would be amended to conform with the new categories for parenteral administration in § 35.390(b)(1)(ii)(G).

Paragraph (d)(2). This paragraph would be amended to conform with the new categories for parenteral administration in § 35.390(b)(1)(ii)(G) and to clarify that a supervising AU must have experience in administering dosages in the same category or categories as the individual requesting AU status.

Paragraph (d)(2)(vi). This paragraph would be amended to conform with the new categories for parenteral administration in § 35.390(b)(1)(ii)(G).

Paragraph (d)(3). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for physicians seeking to be named as an AU of unsealed byproduct material for the parenteral administration requiring a WD. The residency program director must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.396.

The residency program directors who provide written attestations do not have to be AUs who meet the requirements in §§ 35.57, 35.390, 35.396, or equivalent Agreement State requirements, or have experience in administering dosages in the same category or categories as the individual requesting AU status. However, they must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.390, 35.396, or equivalent Agreement State requirements, and concurs with the attestation. An AU who meets the requirements in §§ 35.390, 35.396, or equivalent Agreement State requirements, must have experience in administering dosages in the same category or categories as the individual requesting AU user status.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

Section 35.400 Use of Sources for Manual Brachytherapy

This section would be expanded to allow sources that are listed in the SSDR for manual brachytherapy to be used for other medical uses that are not explicitly listed in the SSDR.

Paragraph (a). This paragraph would be amended to allow sources that are listed in the SSDR for manual brachytherapy medical uses to be used for other manual brachytherapy medical uses that are not explicitly listed in the SSDR provided that these sources are used in accordance with the radiation safety conditions and limitations described in the SSDR. These radiation safety conditions and limitations described in the SSDR may apply to storage, handling, sterilization, conditions of use, and leak testing of radiation sources.

The NRC recognizes that the medical uses specified in the SSDR may not be all inclusive. The proposed revision would permit physicians to use manual brachytherapy sources to treat sites or diseases not listed in the SSDR. For example, the SSDR may specify that the sources are for interstitial uses, but the proposed change would allow the physician to use the sources for a topical use. The NRC has determined this latitude should be afforded to physicians to use at their discretion in the practice of medicine.

Section 35.433 Decay of Strontium-90 Sources for Ophthalmic Treatments

The section title would be modified to delete "Decay of" at the beginning of the title. The new title would reflect the expanded information and requirements in the section.

Paragraph (a). This paragraph would be amended and expanded to allow certain individuals who are not AMPs to calculate the activity of strontium-90 (Sr-90) sources that is used to determine the treatment times for ophthalmic treatments. These individuals, defined in § 35.2 as ophthalmic physicists, would have to meet the T&E requirements detailed in the new paragraph (a)(2) of this section to perform the specified activities but would not require an attestation. These requirements are similar to the T&E requirements for an AMP, but include only the requirements related to brachytherapy programs.

This amendment is proposed to increase the number of qualified individuals available to support the use of Sr-90 sources for ophthalmic treatments. Often, AUs who work in remote areas do not have ready access to an AMP to perform the necessary calculation to support the ophthalmic treatment. This proposed change would make the procedure involving use of Sr-90 sources for ophthalmic treatments available to more patients located in remote areas.

Paragraph (b). This new paragraph would establish the tasks that individuals qualified in paragraph (a) of this section would be required to perform in supporting ophthalmic treatments with Sr-90. The first task is based upon the requirements in § 35.432 for calculating the activity of each Sr-90 source used for ophthalmic treatments. This is not a new requirement, as it is required in the current regulation under § 35.433(a).

The second task is related to the requirements in § 35.41 and is included in this proposed rule to ensure the safe use of Sr-90 for ophthalmic treatments. Both the AMP and the individuals identified under paragraph (a)(2) of this section would be required to assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the dose administration is in accordance with the WD. Under this paragraph, the licensee would have to modify its procedures required under § 35.41 to specify the frequencies that the AMP and/or the individuals identified under paragraph (a)(2) of this section would observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the treatment was administered in accordance with the WD.

Paragraph (c). This new paragraph would be unchanged from the recordkeeping requirements in the current regulation under § 35.433(b).

Section 35.490 Training for Use of Manual Brachytherapy Sources

Paragraph (a). For a physician seeking to be named as an AU of a manual brachytherapy source for the uses authorized under § 35.400, the requirement to obtain a written attestation would be removed for an individual who is certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (b)(1)(ii). This paragraph would be amended to require that the work experience required by this section must be received at a medical facility authorized to use byproduct materials under § 35.400 rather than at a medical institution. The current term

"medical institution" in this paragraph is defined in § 35.2 as an organization in which more than one medical discipline is practiced. This definition unnecessarily limits where the work experience must be obtained. Moreover, the fact that an organization practices more than one medical discipline does not ensure that one of the medical disciplines will be related to uses authorized under § 35.400. The proposed change would allow the work experience to be received at a stand-alone single discipline clinic and also ensure that the work experience is related to the uses authorized under § 35.400.

Paragraph (b)(3). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for physicians seeking to be named as an AU of a manual brachytherapy source for the uses authorized under § 35.400. The residency program directors must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.400.

The residency program directors who provide written attestations do not have to be AUs who meet the requirements in §§ 35.57, 35.490 or equivalent Agreement State requirements. However, they must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.490, or equivalent Agreement State requirements, and that the AU concurs with the attestation.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

Section 35.491 Training for Ophthalmic Use of Strontium-90

Paragraph (b)(3). This paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

Section 35.500 Use of Sealed Sources for Diagnosis

The section would be restructured and expanded to include the use of medical devices to allow sealed sources and medical devices that are listed in the SSDR for diagnostic medical uses to be used for diagnostic medical uses that are not explicitly listed in the SSDR, and to allow sealed sources and medical devices to be used in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA. The section title would be modified to add "and medical devices" as the use of medical devices is added to this section.

Paragraph (a). This paragraph would be amended to clarify that sealed sources not in medical devices for diagnostic medical uses approved in the SSDR can be used for other diagnostic medical uses that are not explicitly listed in an SSDR provided that they are used in accordance with radiation safety conditions and limitations described in the SSDR. These radiation safety conditions and limitations described in the SSDR may include storage, handling, sterilization, conditions of use, and leak testing of radiation sources.

Paragraph (b). This paragraph would be added to allow diagnostic devices containing sealed sources to be used for diagnostic medical uses if both are approved in the SSDR for diagnostic medical uses that are not explicitly listed in an SSDR, provided that they are used in accordance with radiation safety conditions and limitations described in the SSDR. These radiation safety conditions and limitations described in the SSDR may include storage, handling, sterilization, conditions of use, and leak testing of radiation sources.

Paragraph (c). This new paragraph would allow sealed sources and devices for diagnostic medical uses to be used in research in accordance with an active IDE application accepted by the FDA, provided the requirements of § 35.49(a) are met.

Section 35.590 Training for Use of Sealed Sources and Medical Devices for Diagnosis

This section would be restructured and expanded to clarify that both diagnostic sealed sources and devices authorized in § 35.500 are included in the T&E requirements of this section.

Paragraph (b). This new paragraph would recognize the individuals who are authorized for imaging uses listed in § 35.200, or equivalent Agreement State requirements, for use of diagnostic sealed sources or devices authorized under § 35.500.

Section 35.600 Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

The section would be amended to separate the uses of photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units from the uses of the sealed sources contained within these units. The amended section would allow only sealed sources approved in the SSDR in devices to deliver therapeutic medical treatments as provided for in the SSDR; however, the units containing these sources could be used for therapeutic medical treatments that are not explicitly provided for in the SSDR, provided that they are used in accordance with radiation safety conditions and limitations described in the SSDR. The purpose of this amendment is to allow physicians flexibility to exercise their medical judgment and to use these devices for new therapeutic treatments that may not have been anticipated when the devices were registered.

Paragraph (a). This paragraph would require that a licensee use only sealed sources approved in the SSDR for therapeutic medical uses in photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units as provided for in the SSDR or for research in accordance with an active IDE application accepted by the FDA, provided the requirements of § 35.49(a) are met.

Paragraph (b). This paragraph would continue to require that a licensee only use photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units approved in the SSDR or for research in accordance with an active IDE application accepted by the FDA provided the requirements of § 35.49(a) are met. However, this paragraph would be amended to provide that these units may be used for medical uses that are not explicitly provided for in the SSDR, provided that these units are used in accordance with the radiation safety conditions and limitations described in the SSDR.

Section 35.610 Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Paragraph (d)(1). This paragraph would be amended and restructured to add a new training requirement for the

use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. This proposed amendment would require all individuals who would operate these units to receive vendor operational and safety training prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit. This training must be provided by the device manufacturer or by an individual certified by the device manufacturer to provide the training.

Currently, § 35.610(d) requires that an individual who operates these units be provided safety instructions initially, and at least annually; however, there is no requirement for this individual to receive instructions when the unit is upgraded. In addition, the proposed amendment would require an individual who operates these new or upgraded units to receive training prior to first use for patient treatment.

Paragraph (d)(2). This paragraph would be restructured and amended to clarify that the training required by this paragraph on the operation and safety of the unit applies to any new staff who will operate the unit or units at the facility. This requirement would be added to enhance the safety of patients by eliminating the potential for training of new staff to be delayed until the required annual training, which could lead to having undertrained individuals operating the unit.

Paragraph (g). This paragraph would be amended to conform with the restructuring of paragraph (d)(2) of this section.

Section 35.655 Five-Year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

The section title would be modified to delete "Five-year inspection" and insert "Full-inspection servicing" to more accurately reflect the requirements in the section of inspection and servicing of teletherapy unit and gamma stereotactic radiosurgery units.

Paragraph (a). This paragraph would be amended to extend the full inspection and servicing interval between each full inspection servicing for gamma stereotactic radiosurgery units from 5 years to 7 years to assure proper functioning of the source exposure mechanism. The interval between each full inspection and servicing of teletherapy units would remain the same (not to exceed 5 years). For gamma stereotactic radiosurgery units, the full inspection and servicing to assure proper functioning of the source exposure mechanism is performed when the sources are taken out of the unit and before the new sources are placed in the unit (source replacement). Since the cost to replace the decaying sources in a gamma stereotactic radiosurgery unit can be exorbitant, licensees have requested that the intervals between each full inspection servicing for these units be extended beyond 5 years. The NRC finds that the 6-month routine preventive maintenance that is performed on these units is adequate to assure the proper functioning of the source exposure mechanisms and that therefore this extension may be granted. Additionally, the paragraph would require that the full inspection and servicing of these units be performed during each source replacement regardless of the last time that the units were inspected and serviced.

The full inspection and servicing interval of a teletherapy unit has not been extended from the current interval of 5 years to help prevent potentially serious radiation exposure of teletherapy operators and patients in the event that the source exposure mechanism failed. The radioactive source contained in a teletherapy unit produces radiation fields on the order of hundreds of rads per minute in areas accessible to patients and operators. In the event of a source exposure mechanism failure, the exposed source could result in overexposure of a patient or operating personnel in a short period of time.

Section 35.690 Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Paragraph (a). For a physician seeking to be named as an AU for sealed sources for uses authorized under § 35.600, the requirement to obtain a written attestation would be removed for an individual who is certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State. Further discussion on removing the written attestation requirement can be found in Section IV, Discussion, of this document.

Paragraph (b)(1)(ii). This paragraph would be amended to require that the work experience required by this section must be received at a medical facility authorized to use byproduct materials under § 35.600 rather than at a medical institution. The current term "medical institution" in this paragraph is defined in § 35.2 as an organization in which more than one medical discipline is practiced. This definition unnecessarily limits where the work experience must be obtained. Moreover, the fact that an organization practices more than one medical discipline does not ensure that one of the medical disciplines will be related to uses authorized under § 35.600. The proposed change would allow the work experience to be received at a stand-alone single discipline clinic for the uses authorized under § 35.600.

Paragraph (b)(3). This paragraph would be restructured and expanded to allow certain residency program directors to provide written attestations for physicians seeking to be named as an AU for sealed sources for uses authorized under § 35.600. The residency program directors must represent a residency training program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association. The residency training program must include T&E specified in § 35.690.

The residency program directors who provide written attestations do not have to be AUs who meet the requirements in §§ 35.57, 35.690, or equivalent Agreement State requirements, for the type(s) of therapeutic medical unit(s) for which the individual is requesting AU status. However, they must affirm in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an AU who meets the requirements in §§ 35.57, 35.690, or equivalent Agreement State requirements, for the type(s) of therapeutic medical unit(s) for which the individual is requesting AU status and that the AU concurs with the attestation.

Additionally, the paragraph would be amended to incorporate the new language that the written attestation would verify that the physician is able to independently fulfill the radiation safety-related duties, rather than has achieved a level of competency to function independently, as an AU.

Section 35.2024 Records of Authority and Responsibilities for Radiation Protection Programs

Paragraph (c). This new paragraph would require the licensee to keep records of each ARSO assigned under § 35.24(b) for 5 years after the ARSO is removed from the license. These records would have to include the written document appointing the ARSO signed by the licensee's management and each agreement signed by the ARSO listing the duties and tasks assigned by the RSO under § 35.24(b).

Section 35.2310 Records of Safety Instruction

This section would be amended to conform to the changes proposed in § 35.610 by adding a requirement to maintain the operational and safety instructions required by § 35.610.

Section 35.2655 Records of 5-Year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

The section title would be modified to delete "5-year inspection" and insert "full-inspection servicing" to reflect the proposed changes to § 35.655 requiring full inspection and servicing of teletherapy units and gamma stereotactic radiosurgery units.

Section 35.3045 Report and Notification of a Medical Event

Paragraph (a) of this section would be restructured and amended to specify separate specific criteria for reporting an ME involving permanent implant brachytherapy. These new criteria would be different from the criteria for reporting an ME for other administrations that require a WD.

Paragraph (a)(1). This new paragraph would have criteria for reporting an ME for administrations that require a WD other than permanent implant brachytherapy. Criteria for reporting an ME involving permanent implant brachytherapy would be in a new paragraph (a)(2) in this section. The criteria used to determine if an ME has occurred for administrations that require a WD other than permanent implant brachytherapy would be unchanged except (1) the current paragraph (a)(3) related to the dose to the skin or an organ or tissue other than the treatment site would be restructured for clarity as the new paragraph (a)(1)(iii); and (2) a criterion would be added in the new paragraph (a)(1)(ii)(A) of this section for reporting as an ME an administration involving the wrong radionuclide for a brachytherapy procedure.

Paragraph (a)(2). This new paragraph would be added to establish separate criteria for reporting MEs involving permanent implant brachytherapy. These new criteria are designed to ensure reporting of situations where harm or potential harm to the patient may occur. The new criteria for reporting an ME involving permanent implant brachytherapy include:

(1) The total source strength administered differing by 20 percent or more from the total source strength documented in the post-implantation portion of the WD. An example of a situation that would meet this criterion would be if the sealed sources, which were implanted, had a different source strength than what was intended. This situation could occur from ordering, or a vendor shipping, sealed sources with the wrong activity;

(2) The total source strength administered outside of the treatment site exceeding 20 percent of the total source strength documented in the post-implantation portion of the WD. An example of a situation that would meet this criterion would be if sealed sources are unintentionally implanted outside of the treatment site. This situation would be identified by the licensee when determinations are made that are related to 10 CFR 35.41;

(3) An absorbed dose to the maximally exposed 5 contiguous cubic centimeters of normal tissue located outside of the treatment site that exceeds by 50 percent or more of the absorbed dose prescribed to the treatment site by an AU in the pre-implantation portion of the WD. The ACMUI recommended that for this criterion the absorbed dose to normal tissue should be measured in a volume large enough such that small fluctuations, such as a single source out of place, would not result in an ME. The ACMUI's recommendation for selecting 5 contiguous cubic centimeters volume related to organ at risk toxicity is based on an article entitled, "Proposed guidelines for image-based intracavitary brachytherapy for cervical carcinoma: Report from Image-Guided Brachytherapy Working Group," by S. Nag, H. Cardenes, S. Chang, I. Das, B. Erickson, G. Ibbott, J. Lowenstein, J. Roll, B. Thomadsen, M. Varia, in the International Journal of Radiation Oncology and Bio Physics 60:1160–1172, 2004.

An example of a situation that would meet this criterion would be if sealed sources are not implanted in the treatment site in a spatially distributed manner, i.e., they are bunched or grouped rather than spatially distributed. This could result in a higher dose than was expected or desired to normal tissues that are located close to the treatment site.

(4) An absorbed dose to the maximally exposed 5 contiguous cubic centimeters of normal tissue located within the treatment site that exceeds by 50 percent or more of the absorbed dose to that tissue based on the pre-implantation dose distribution approved by an AU. The ACMUI recommended with regard to this criterion that the absorbed dose to normal tissue should be measured in a volume large enough such that small fluctuations, such as a single source out of place, would not result in an ME. The 5 contiguous cubic centimeters proposed is the largest volume related to organ at risk toxicity in the literature referenced in criterion 3.

An example of a situation that would meet this criterion would be if sealed sources are not implanted in the treatment site as intended. The unintended higher dose could be from the sealed sources being bunched or grouped close to the normal tissue rather than spatially distributed or from sealed sources being unintentionally implanted into the normal tissue. This could result in a higher dose than was expected or desired to normal tissues that are located within the treatment site.

(5) An administration that includes the wrong radionuclide; the wrong individual or human research subject; sealed sources directly delivered to the wrong treatment site; a leaking sealed source resulting in a dose that exceeds 0.5 Sv (50 rem) to an organ or tissue; or a 20 percent or more error in calculating the total source strength documented in the pre-implantation portion of the WD. Only the proposed criteria for a leaking sealed source retains the dose threshold in current regulations because the NRC determined the leaking sealed source delivering a dose below this threshold does not need to be reported as a medical event.

Several situations that would meet this criterion are self-evident, i.e., wrong patient, wrong treatment site, or leaking sealed source. An error of 20 percent or more in calculating the total source strength could lead to implanting the wrong number of sealed sources, which could result in an under- or over-dosing of the treatment area and possibly a higher dose to normal tissue than was expected.

Section 35.3204 Report and Notification for an Eluate Exceeding Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations

This new section would be added to require reporting and notification of an elution from a Mo-99/Tc-99m or Sr-82/Rb-82 generator that exceeds the regulatory requirements in §§ 30.34 and 35.204(a). Further discussion on reporting failed generators can be found in Section IV, Discussion, of this document.

Paragraph (a). This new section would require a licensee to notify both the NRC Operations Center and the manufacturer/distributor of the generator by telephone within 30 calendar days after discovery that an eluate exceeds the permissible concentration listed in § 35.204(a). This

notification would include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects; whether the manufacturer/distributor was notified; and the action taken.

Paragraph (b). This new section would require a licensee to submit a written report to the appropriate NRC Regional Office listed in § 30.6 within 45 days after discovery of an eluate exceeding the permissible concentration. The report would have to be submitted by an appropriate method listed in § 30.6(a). The report would include the action taken by the licensee, patient dose assessments, the methodology used in making the patient dose assessment if the eluate was administered to patients or human research subjects, probable cause and assessment of failure in the licensee's equipment, procedures or training that contributed to the excessive readings if an error occurred in the licensee's breakthrough determination, and the information in the telephone report as required by paragraph (a) of this section.

Administrative Changes to Authority Citations

The authority citations for 10 CFR parts 30, 32, and 35 would be revised to make editorial changes that are administrative in nature, including inserting missing parentheses and punctuation. The proposed revisions would not change the statutory authority.

VI. Criminal Penalties

For the purpose of Section 223 of the Atomic Energy Act of 1954, as amended (AEA), the Commission is proposing to amend 10 CFR parts 30, 32, and 35 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

VII. Coordination With NRC Agreement States

The Agreement States have been involved throughout the development of this proposed rule. Agreement State representatives have served on the rulemaking working group that has developed the proposed amendments to 10 CFR part 35 and on the steering committee for the rulemaking.

Through an All Agreement State Letter (FSME–11–044, dated May 20, 2011, ADAMS Accession No. ML111400231), the Agreement States were notified of the availability of preliminary rule text for comments posted on *www.regulations.gov* and noticed in the **Federal Register** (76 FR 29171; May 20, 2011). The **Federal Register** notice also invited the Agreement States to participate at the two public workshops that were held in New York City, New York, and Houston, Texas, during the summer of 2011. Finally, in preparing the proposed amendments, the rulemaking working group considered the comments provided by the Agreement States.

VIII. Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this proposed rule would be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among the Agreement States and NRC requirements. The NRC staff analyzed the proposed rule in accordance with the procedure established within Part III, "Categorization Process for NRC Program Elements," of Handbook 5.9 to Management Directive 5.9, "Adequacy and Compatibility of Agreement State Programs" (a copy of which may be viewed at *http://www.nrc.gov/reading-rm/doc-collections/management-directives/*). The Agreement States have 3 years from the effective date of the final rule in the **Federal Register** to adopt compatible regulations.

The NRC program elements (including regulations) are placed into four compatibility categories (See the Draft Compatibility Table for Proposed Rule in this section). In addition, the NRC program elements can also be identified as having particular health and safety significance or as being reserved solely by the NRC. Compatibility Category A contains those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B contains those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C contains those program elements that do not meet the criteria of Category A or B, but provide the essential objectives, which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D contains those program elements that do not meet any of the criteria of Categories A, B, or C, and, therefore, do not need to be adopted by the Agreement States for purposes of compatibility.

The Health and Safety (H&S) category contains program elements that are not required for compatibility but are identified as having a particular health and safety role (i.e., adequacy) in the regulation of agreement material within the State. Although not required for compatibility, the State should adopt program elements in this H&S category based on those of the NRC that embody the essential objectives of NRC program elements because of particular health and safety considerations. Compatibility Category NRC are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act, as amended, or provisions of 10 CFR. These program elements are not adopted by the Agreement States. The following table lists the parts and sections that would be revised and their corresponding categorization under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs." A bracket around a category means that the section may have been adopted elsewhere, and it is not necessary to adopt it again.

The NRC invites comment on the compatibility category designations in the proposed rule and suggests that commenters refer to Handbook 5.9 of Management Directive 5.9 for more information. The NRC notes that, like the rule text, the compatibility category designations can change between the proposed rule and final rule, based on comments received and Commission decisions regarding the final rule. The NRC encourages anyone interested in commenting on the compatibility category designations in any manner to do so during the comment period. Discussion on changing the Compatibility Category for § 35.3045, Report and notification of a medical event, can be found in Section IV, Discussion, of this document.

DRAFT COMPATIBILITY TABLE FOR PROPOSED RULE

Section	Change	Subject	Compatibility	
			Existing	New
Part 30				
30.34(g)	Amend	Terms and conditions of licenses	B	B
Part 32				
32.72(a)(4)	Amend	Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under 10 CFR part 35.	B	B
32.72(b)(5)(i)	Amend	Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under 10 CFR part 35.	B	B
32.72(d)	New	Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under 10 CFR part 35.	.....	B
Part 35				
35.2	New	Definitions—Associate Radiation Safety Officer	.....	B
35.2	New	Definitions—Ophthalmic physicist	.....	B
35.2	Amend	Definitions—Preceptor	D	D
35.12(b)(1)	Amend	Application for license, amendment, or renewal	D	D
35.12(c)(1)	Amend	Application for license, amendment, or renewal	D	D
35.12(c)(1)(ii)	Amend	Application for license, amendment, or renewal	D	D
35.12(d)	Amend	Application for license, amendment, or renewal	D	D
35.12(d)(1)	New	Application for license, amendment, or renewal	.....	D
35.12(d)(2)	New	Application for license, amendment, or renewal	.....	D
35.12(d)(3)	New	Application for license, amendment, or renewal	.....	D
35.12(d)(4)	Amend	Application for license, amendment, or renewal	D	D
35.13(b)	Amend	License amendments	D	D
35.13(d)	New	License amendments	.....	D
35.13(i)	New	License amendments	.....	D
35.14(a)	Amend	Notifications	D	D
35.14(b)(1)	Amend	Notifications	D	D
35.14(b)(2)	Amend	Notifications	D	D
35.14(b)(6)	New	Notifications	.....	D
35.24(b)	Amend	Authority and responsibilities for the radiation protection program	H&S	H&S
35.24(c)	Amend	Authority and responsibilities for the radiation protection program	D	D
35.40(b)(6)	Amend	Written directives	H&S	H&S
35.41(b)(5)	New	Procedures for administrations requiring a written directive	.....	H&S
35.41(b)(6)	New	Procedures for administrations requiring a written directive	.....	H&S
35.50	Amend	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	B	B
35.50(a)	Amend	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	B	B
35.50(a)(2)(ii)(B)	Amend	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	B	B
35.50(b)(1)(ii)	Amend	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	B	B
35.50(b)(2)	New	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	.....	B
35.50(c)(1)	Amend	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	B	B
35.50(c)(2)	Amend	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	B	B
35.50(c)(3)	New	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	.....	B
35.50(d)	Amend	Training for Radiation Safety Officer and Associate Radiation Safety Officer.	B	B
35.51(a)	Amend	Training for an authorized medical physicist	B	B
35.51(a)(2)(i)	Amend	Training for an authorized medical physicist	B	B
35.51(b)(2)	Amend	Training for an authorized medical physicist	B	B
35.55(a)	Amend	Training for an authorized nuclear pharmacist	B	B
35.55(b)(2)	Amend	Training for an authorized nuclear pharmacist	B	B
35.57(a)(1)	Amend	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.	B	B
35.57(a)(2)	New	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.	.....	B

DRAFT COMPATIBILITY TABLE FOR PROPOSED RULE—Continued

Section	Change	Subject	Compatibility	
			Existing	New
35.57(a)(3)	New	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.		B
35.57(b)(1)	Amend	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.	B	B
35.57(b)(2)	Amend	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.	B	B
35.57(b)(2)(i)	New	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.		B
35.57(b)(2)(ii)	New	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.		B
35.57(b)(2)(iii)	New	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.		B
35.57(b)(2)(iv)	New	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.		B
35.65(b)	New	Authorization for calibration, transmission, and reference sources		D
35.65(b)(1)	New	Authorization for calibration, transmission, and reference sources		D
35.65(b)(2)	New	Authorization for calibration, transmission, and reference sources		D
35.65(c)	New	Authorization for calibration, transmission, and reference sources		D
35.190(a)	Amend	Training for uptake, dilution, and excretion studies	B	B
35.190(c)(2)	Amend	Training for uptake, dilution, and excretion studies	B	B
35.190(c)(2)(i)	New	Training for uptake, dilution, and excretion studies		B
35.190(c)(2)(ii)	New	Training for uptake, dilution, and excretion studies		B
35.204(b)	Amend	Permissible molybdenum-99, strontium-82, and strontium-85 concentrations.	H&S	H&S
35.204(e)	New	Permissible molybdenum-99, strontium-82, and strontium-85 concentrations.		H&S
35.290(a)	Amend	Training for imaging and localization studies	B	B
35.290(c)(1)(ii)	Amend	Training for imaging and localization studies	B	B
35.290(c)(2)	Amend	Training for imaging and localization studies	B	B
35.290(c)(2)(i)	New	Training for imaging and localization studies		B
35.290(c)(2)(ii)	New	Training for imaging and localization studies		B
35.300	Amend	Use of unsealed byproduct material for which a written directive is required.	B	B
35.390(a)	Amend	Training for use of unsealed byproduct material for which a written directive is required.	B	B
35.390(b)(1)(ii)(G)(*3*)	Amend	Training for use of unsealed byproduct material for which a written directive is required.	B	B
35.390(b)(1)(ii)(G)(*4*)	New	Training for use of unsealed byproduct material for which a written directive is required.		B
35.390(b)(1)(ii)(G)(*5*)	New	Training for use of unsealed byproduct material for which a written directive is required.		B
35.390(b)(2)	Amend	Training for use of unsealed byproduct material for which a written directive is required.	B	B
35.390(b)(2)(i)	New	Training for use of unsealed byproduct material for which a written directive is required.		B
35.390(b)(2)(ii)	New	Training for use of unsealed byproduct material for which a written directive is required.		B
35.390(c)	New	Training for use of unsealed byproduct material for which a written directive is required.		B
35.392(a)	Amend	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries).	B	B
35.392(c)(3)	Amend	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries).	B	B
35.392(c)(3)(i)	New	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries).		B
35.392(c)(3)(ii)	New	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries).		B

DRAFT COMPATIBILITY TABLE FOR PROPOSED RULE—Continued

Section	Change	Subject	Compatibility	
			Existing	New
35.394(a)	Amend	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).	B	B
35.394(c)(3)	Amend	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).	B	B
35.394(c)(3)(i)	New	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).		B
35.394(c)(3)(ii)	New	Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).		B
35.396(a)	Amend	Training for the parenteral administration of unsealed byproduct material requiring a written directive.	B	B
35.396(b)	Amend	Training for the parenteral administration of unsealed byproduct material requiring a written directive.		B
35.396(c)	Amend	Training for the parenteral administration of unsealed byproduct material requiring a written directive.	B	B
35.396(d)(1)	Amend	Training for the parenteral administration of unsealed byproduct material requiring a written directive.	B	B
35.396(d)(2)	Amend	Training for the parenteral administration of unsealed byproduct material requiring a written directive.	B	B
35.396(d)(2)(iv)	Amend	Training for the parenteral administration of unsealed byproduct material requiring a written directive.	B	B
35.396(d)(3)	Amend	Training for the parenteral administration of unsealed byproduct material requiring a written directive.	B	B
35.396(d)(3)(i)	New	Training for the parenteral administration of unsealed byproduct material requiring a written directive.		B
35.396(d)(3)(ii)	New	Training for the parenteral administration of unsealed byproduct material requiring a written directive.		B
35.400(a)	Amend	Use of sources for manual brachytherapy	C	C
35.400(b)	Amend	Use of sources for manual brachytherapy	C	C
35.433(a)	Amend	Strontium-90 sources for ophthalmic treatments	H&S	B
35.433(b)	New	Strontium-90 sources for ophthalmic treatments		H&S
35.433(b)(1)	New	Strontium-90 sources for ophthalmic treatments		H&S
35.433(b)(2)	New	Strontium-90 sources for ophthalmic treatments		H&S
35.433(c)	Redesignated	Strontium-90 sources for ophthalmic treatments (Previously 35.433(b))		H&S
35.490(a)	Amend	Training for use of manual brachytherapy sources	B	B
35.490(b)(1)(ii)	Amend	Training for use of manual brachytherapy sources	B	B
35.490(b)(3)	Amend	Training for use of manual brachytherapy sources	B	B
35.490(b)(3)(i)	New	Training for use of manual brachytherapy sources		B
35.490(b)(3)(ii)	New	Training for use of manual brachytherapy sources		B
35.491(b)(3)	Amend	Training for ophthalmic use of strontium-90	B	B
35.500(a)	Amend	Use of sealed sources and medical devices for diagnosis (Previously 35.500).	[C]	C
35.500(b)	New	Use of sealed sources and medical devices for diagnosis		C
35.500(c)	New	Use of sealed sources and medical devices for diagnosis		C
35.590(a)	Amend	Training for use of sealed sources for diagnosis	B	B
35.590(b)	New	Training for use of sealed sources for diagnosis		B
35.590(c)	Redesignated	Training for use of sealed sources for diagnosis (Previously 35.590(b))	B	B
35.590(d)	Redesignated	Training for use of sealed sources for diagnosis (Previously 35.590(c))	B	B
35.600(a)	Amend	Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit.	C	C
35.600(b)	Amend	Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit.	C	C
35.610(d)(1)	New	Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.		H&S
35.610(d)(2)	Amend	Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.	H&S	H&S
35.610(g)	Amend	Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.	H&S	H&S
35.655(a)	Amend	Full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units.	H&S	H&S
35.690(a)	Amend	Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.	B	B
35.690(b)(1)(ii)	Amend	Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.	B	B
35.690(b)(3)	Amend	Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.	B	B

DRAFT COMPATIBILITY TABLE FOR PROPOSED RULE—Continued

Section	Change	Subject	Compatibility	
			Existing	New
35.690(b)(3)(i)	New	Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.		B
35.690(b)(3)(ii)	New	Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.		B
35.2024(c)	New	Records of authority and responsibilities for radiation protection programs.		D
35.2024(c)(1)	New	Records of authority and responsibilities for radiation protection programs.		D
35.2024(c)(2)	New	Records of authority and responsibilities for radiation protection programs.		D
35.2310	Amend	Records of safety instruction	D	D
35.2655(a)	Amend	Records of full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units.	D	D
35.3045(a)(1)	Amend	Report and notification of a medical event	C	B
35.3045(a)(2)	New	Report and notification of a medical event		B
35.3204(a)	New	Report and notification for an eluate exceeding permissible molybdenum-99, strontium-82, and strontium-85 concentrations.		C
35.3204(b)	New	Report and notification for an eluate exceeding permissible molybdenum-99, strontium-82, and strontium-85 concentrations.		C

IX. Coordination With the Advisory Committee on the Medical Uses of Isotopes

The NRC staff consults with the ACMUI whenever it identifies an issue with implementation of 10 CFR part 35 regulations. Accordingly, issues leading to these proposed amendments have been discussed at ACMUI meetings over the past 9 years. The ACMUI meetings are transcribed. Full transcripts of the ACMUI meetings can be found online in the NRC Library at *http://www.nrc.gov/reading-rm/doc-collections/acmui/tr.* In addition, in SRM–SECY–10–0062, the Commission specifically directed the staff to engage the ACMUI in developing the ME definition criterion for permanent implant brachytherapy. Further, the proposals to revise T&E requirements to eliminate preceptor attestation for board-certified individuals, change the language of the attestation, and allow a residency director to provide preceptor attestations were initiated by the ACMUI in its briefing to the Commission held on April 29, 2008 (discussed in detail in item b in Section IV, Discussion, of this document). Similarly, the issue of naming more than one RSO was initiated by the ACMUI at the June 2007 ACMUI meeting (discussed in detail in item d in Section IV, Discussion, of this document). Finally, the entire ACMUI meeting held on April 20–21, 2011, was devoted to discussion of the rulemaking issues addressed in this proposed rule, so that the staff would be better able to understand ACMUI's position and views on the issues raised.

In December 2012, the NRC provided the preliminary draft proposed rule to the ACMUI for a 90-day review. The draft (ADAMS Accession No. ML13014A487) was made public to facilitate the ACMUI review in a public forum. The ACMUI discussed the draft proposed rule at two publicly held teleconferences on March 5 and March 12, 2013 (conference transcripts are available in ADAMS at ML13087A474 and ML13087A477, respectively), and provided a final report to the NRC on April 9, 2013 (ADAMS Accession No. ML13071A690).

While the ACMUI was supportive of most of the proposed amendments, it expressed concerns on some issues and provided its recommendations on those issues. Several comments resulted in revisions to the discussion section of this document to provide additional emphasis or clarity. However, the NRC did not accept all of the ACMUI recommendations. The recommendations that the staff did not accept are discussed in a document entitled, "NRC Staff Responses to the ACMUI Comments on the draft Part 35 Proposed Rule" (ADAMS Accession No. ML13179A073).

In addition, in the report, the ACMUI recommended that for permanent implant brachytherapy procedures, licensees be allowed to use total source strength as a substitute for total dose for determining MEs until the 10 CFR part 35 rulemaking is completed. In response, on July 9, 2013, the Commission issued an interim enforcement policy (78 FR 41125) that addresses this issue.

X. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

XI. Consistency With Medical Policy Statement

The proposed amendments to 10 CFR part 35 are consistent with the Commission's Medical Use Policy Statement published August 3, 2000 (65 FR 47654). This proposed rule is consistent with the Commission's statement because it balances the interests of the patient with the flexibility needed by the AU to take the actions that he or she deems medically necessary, while continuing to enable the NRC to detect deficiencies in processes, procedures, and training, as well as any misapplication of byproduct materials.

XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would amend its medical use

regulations related to ME definitions for permanent implant brachytherapy; T&E requirements for AUs, medical physicists, RSOs, and nuclear pharmacists; consideration of the Ritenour Petition (PRM–35–20) to "grandfather" certain experienced individuals; measuring Mo contamination for each elution and reporting of failed breakthrough tests; naming ARSOs on a medical license; and several minor clarifications.

The NRC is not aware of any voluntary consensus standards that address the proposed subject matter of this proposed rule. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified. If a voluntary consensus standard is identified for consideration, the submittal should explain why the standard should be used.

XIII. Environmental Impact: Categorical Exclusion

The NRC has determined that the following actions in the proposed rule are the types of actions described in categorical exclusions in 10 CFR 51.22(c)(2) and (c)(3)(i–v):

(1) The amendments to the general administrative requirements and general technical requirements meet the categorical exclusion criteria under § 51.22 (c)(2).

(2) The amendments to sealed sources usage provide clarifications to the current regulations and meet the categorical exclusion criteria under § 51.22(c)(2).

(3) The amendments to the requirements for reporting MEs and reporting failed generator tests meet the categorical exclusion criteria under § 51.22(c)(3)(iii).

(4) The amendments related to the record-keeping requirements meet the categorical exclusion criteria under § 51.22(c)(3)(ii).

(5) The amendments related to the T&E requirements meet the categorical exclusion criteria under § 51.22(c)(3)(iv).

There are two proposed amendments that do not meet the categorical exclusions in § 51.22. Therefore, a draft environmental assessment has been prepared for this proposed rule for the two proposed actions that do not meet the categorical exclusions in § 51.22 and is discussed in Section XIV, Finding of No Significant Environmental Impact: Availability, of this document. The proposed amendments that do not meet the categorical exclusions in § 51.22 are: (1) Increase frequency of measuring Mo-99 tests required in § 35.204, and (2) increase the full inspection time interval for a gamma stereotactic radiosurgery unit from 5 years to 7 years in § 35.655.

XIV. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, not to prepare an environmental impact statement for this proposed rule because the Commission has concluded on the basis of a draft environmental assessment that this proposed rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment. The amendments would relax certain requirements and eliminate other procedural restrictions associated with the medical use of byproduct material. The Commission believes these amendments would provide greater flexibility in the medical use of byproduct material while continuing to adequately protect public health and safety. It is expected that this rule, if adopted, would not cause any significant increase in radiation exposure to the public or radiation release to the environment beyond the exposures or releases currently resulting from the medical use of byproduct material.

The determination of this draft environmental assessment is that there will be no significant impact to the public from this action. However, the general public should note that the NRC welcomes public participation and comments on any aspect of the Environmental Assessment.

The NRC has sent a copy of the Draft Environmental Assessment and this proposed rule to every State Liaison Officer and requested their comments on the Draft Environmental Assessment. The Draft Environmental Assessment is available in ADAMS under Accession No. ML14184A621.

XV. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The rule would reduce the burden for existing information collection requirements. This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR parts 30, 32, and 35, Medical Use of Byproduct Material—Medical Event Definitions, Training and Experience, and Clarifying Amendments, Proposed Rule.

The form number if applicable: NRC Form 313A Series, "Authorized User Training and Experience and Preceptor Attestation."

How often the collection is required: The information is collected as needed. Reports required under the proposed rule are based on events that exceed limits stipulated by various sections of the proposed rule. The NRC Form 313A Series or equivalent is required when an applicant or licensee applies to have a new individual identified as an AU, RSO, ARSO, ANP, or an AMP on a medical use license during a new license, a renewal, or an amendment request.

Who will be required or asked to report: Persons licensed under 10 CFR parts 30, 32, and 35 who possess and use certain byproduct material for medical use.

An estimate of the number of annual responses: 28,049 (4,095 NRC licensees/ 23,954 Agreement State licensees).

The estimated number of annual respondents: 7,845 (1,085 NRC/6,401 Agreement State medical use licensees) and (52 NRC and 307 Agreement State radiopharmacy licensees).

An estimate of the total number of hours needed annually to complete the requirement or request: 6,671 hours (963.75 NRC licensees/5,739.75 Agreement State licensees/-32.5 third-party burden).

Abstract: The NRC is proposing to amend its regulations related to the medical use of byproduct material. In this action the NRC addresses three ongoing rulemaking projects and several other related topics. First, this rule proposes amendments to the reporting and notification requirements for a ME for permanent implant brachytherapy. Second, the rule proposes changes to the T&E requirements for AUs, medical physicists, RSOs, and nuclear pharmacists; changes to the requirements for measuring Mo contaminations and reporting of failed Tc and Rb generators; and changes that would allow ARSOs to be named on a medical license, as well as other clarifying and conforming amendments. Third, the NRC is considering a request filed in a petition for rulemaking (PRM–35–20) to "grandfather" certain board-certified individuals.

The NRC is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the

NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

The public may examine and have copied, for a fee, publicly available documents, including the draft supporting statement, at the NRC's PDR, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by August 20, 2014 to the FOIA, Privacy, and Information Collections Branch (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS.RESOURCE@NRC.GOV* and to the Desk Officer, Danielle Y. Jones, Office of Information and Regulatory Affairs, NEOB–10202, (3150–AI63), Office of Management and Budget, Washington, DC 20503. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. You may also email comments to *Danielle_Y._Jones@omb.eop.gov* or comment by telephone at (202) 395–1741.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XVI. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission.

The Commission requests public comment on the draft regulatory analysis. The draft regulatory analysis is available in ADAMS under Accession No. ML14184A620

XVII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. An estimate is provided in Appendix A of the draft Regulatory Analysis for this proposed regulation (ADAMS Accession No. ML14184A620). The NRC is seeking public comment on the potential impact of the proposed rule on small entities. The NRC particularly desires comment from licensees who qualify as small businesses, specifically as to how the proposed regulation will affect them and how the regulation may be tiered or otherwise modified to impose less stringent requirements on small entities while still adequately protecting the public health and safety and common defense and security. Comments on how the regulation could be modified to take into account the differing needs of small entities should specifically discuss—

(a) The size of the business and how the proposed regulation would result in a significant economic burden upon it as compared to a larger organization in the same business community;

(b) If the proposed regulation could be further modified to take into account the business's differing needs or capabilities;

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation was modified as suggested by the commenter;

(d) How the proposed regulation, as modified, would more closely equalize the impact of the NRC's regulations as opposed to providing special advantages to any individuals or groups; and

(e) How the proposed regulation, as modified, would still adequately protect the public health and safety and common defense and security.

XVIII. Backfitting and Issue Finality

The backfitting rule and issue finality provisions of 10 CFR part 52 (which are found in the regulations at §§ 50.109, 70.76, 72.62, 76.76, and in 10 CFR part 52) do not apply to this proposed rule. Title 10 of the CFR parts 30, 32, and 35 do not contain a backfitting requirement. Therefore, a backfitting analysis is not required.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 30, 32, and 35.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 1. The authority citation for part 30 is revised to read as follows:

Authority: Atomic Energy Act secs. 81, 82, 161, 181, 182, 183, 186, 223, 234 (42 U.S.C. 2111, 2112, 2201, 2231, 2232, 2233, 2236, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 30.7 also issued under Energy Reorganization Act sec. 211, Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 30.34(b) also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 30.61 also issued under Atomic Energy Act sec. 187 (42 U.S.C. 2237).

■ 2. In § 30.34, add a third sentence to paragraph (g) to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(g) * * * The licensee shall report the results of any test that exceeds the permissible concentration listed in § 35.204(a), in accordance with § 35.3204 of this chapter.

* * * * *

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

■ 3. The authority citation for part 32 is revised to read as follows:

Authority: Atomic Energy Act secs. 81, 161, 181, 182, 183, 223, 234 (42 U.S.C. 2111, 2201, 2231, 2232, 2233, 2273, 2282); Energy

Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 4. In § 32.72, revise paragraphs (a)(4) and (b)(5)(i), redesignate paragraph (d) as paragraph (e), and add a new paragraph (d) to read as follows:

§ 32.72 Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under part 35.

(a) * * *

(4) The applicant commits to the following label requirements:

* * * * *

(b) * * *

(5) * * *

(i) A copy of each individual's certification by a specialty board whose certification process has been recognized by the Commission or an Agreement State as specified in § 35.55(a) of this chapter; or

* * * * *

(d) A licensee shall satisfy the labeling requirements in (a)(4) of this section.

* * * * *

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

■ 5. The authority citation for part 35 is revised to read as follows:

Authority: Atomic Energy Act secs. 81, 161, 181, 182, 183, 223, 234 (42 U.S.C. 2111, 2201, 2231, 2232, 2233, 2273, 2282); Energy Reorganization Act sec. 201, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, sec. 651(e), Pub. L. No. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 6. In § 35.2, add, in alphabetical order, the definitions for *Associate Radiation Safety Officer* and *Ophthalmic physicist* and revise the definition for *Preceptor* to read as follows:

§ 35.2 Definitions.

* * * * *

Associate Radiation Safety Officer means an individual who—

(1) Meets the requirements in §§ 35.50 and 35.59; and

(2) Is currently identified as an Associate Radiation Safety Officer for the types of use of byproduct material for which the individual has been assigned duties and tasks by the Radiation Safety Officer on—

(i) A specific medical use license issued by the Commission or an Agreement State; or

(ii) A medical use permit issued by a Commission master material licensee.

* * * * *

Ophthalmic physicist means an individual who meets the requirements in § 35.433(a)(2) and is identified as an ophthalmic physicist on a specific medical use license issued by the Commission or an Agreement State or a medical use permit issued by a Commission master material licensee.

* * * * *

Preceptor means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, a Radiation Safety Officer, or an Associate Radiation Safety Officer.

* * * * *

■ 7. In § 35.12, revise paragraphs (b)(1), (c), and (d) to read as follows:

§ 35.12 Application for license, amendment, or renewal.

* * * * *

(b) * * *

(1) Filing an original NRC Form 313, "Application for Material License," that includes the facility diagram, equipment, and training and experience qualifications of the Radiation Safety Officer, Associate Radiation Safety Officer(s), authorized user(s), authorized medical physicist(s), ophthalmic physicist(s), and authorized nuclear pharmacist(s); and

* * * * *

(c) A request for a license amendment or renewal must be made by—

(1) Submitting an original of either—

(i) NRC Form 313, "Application for Material License"; or

(ii) A letter containing all information required by NRC Form 313; and

(2) Submitting procedures required by §§ 35.610, 35.642, 35.643, and 35.645, as applicable.

(d) In addition to the requirements in paragraphs (b) and (c) of this section, an application for a license or amendment for medical use of byproduct material as described in § 35.1000 must also include:

(1) Any additional aspects of the medical use of the material that are applicable to radiation safety that are not addressed in, or differ from, subparts A through C, L, and M of this part;

(2) Identification of and commitment to follow the applicable radiation safety program requirements in subparts D through H of this part that are appropriate for the specific § 35.1000 medical use;

(3) Any additional specific information on—

(i) Radiation safety precautions and instructions;

(ii) Methodology for measurement of dosages or doses to be administered to patients or human research subjects; and

(iii) Calibration, maintenance, and repair of instruments and equipment necessary for radiation safety; and

(4) Any other information requested by the Commission in its review of the application.

* * * * *

■ 8. In § 35.13, revise paragraph (b), redesignate paragraphs (d) through (g) as paragraphs (e) through (h), revise redesignated paragraphs (g) and (h), and add new paragraphs (d) and (i) to read as follows:

§ 35.13 License amendments.

* * * * *

(b) Before it permits anyone to work as an authorized user, authorized medical physicist, ophthalmic physicist, or authorized nuclear pharmacist under the license, except—

(1) For an authorized user, an individual who meets the requirements in §§ 35.59 and 35.190(a), 35.290(a), 35.390(a), 35.392(a), 35.394(a), 35.490(a), 35.590(a), and 35.690(a);

(2) For an authorized nuclear pharmacist, an individual who meets the requirements in §§ 35.55(a) and 35.59;

(3) For an authorized medical physicist, an individual who meets the requirements in §§ 35.51(a) and 35.59;

(4) An individual who is identified as an authorized user, an authorized nuclear pharmacist, authorized medical physicist, or an ophthalmic physicist—

* * * * *

(d) Before it permits anyone to work as an Associate Radiation Safety Officer, or before the Radiation Safety Officer assigns duties and tasks to an Associate Radiation Safety Officer that differ from those for which this individual is authorized on the license;

* * * * *

(g) Before it changes the address(es) of use identified in the application or on the license;

(h) Before it revises procedures required by §§ 35.610, 35.642, 35.643, and 35.645, as applicable, where such revision reduces radiation safety; and

(i) Before it receives a sealed source from a different manufacturer or of a different model number than authorized by its license unless the sealed source is used for manual brachytherapy, is listed in the Sealed Source and Device Registry, and is in a quantity and for an isotope authorized by the license.

■ 9. In § 35.14, revise paragraphs (a) and (b) to read as follows:

§ 35.14 Notifications.

(a) A licensee shall provide the Commission, no later than 30 days after the date that the licensee permits an individual to work under the provisions of § 35.13(b) as an authorized user, authorized medical physicist, ophthalmic physicist, or authorized nuclear pharmacist—

(1) A copy of the board certification and as appropriate, verification of completion of:

(i) Training for the authorized medical physicist under § 35.51(c);

(ii) Any additional case experience required in § 35.390(b)(1)(ii)(G) for an authorized user under § 35.300; or

(iii) Device specific training in § 35.690(c) for the authorized user under § 35.600; or

(2) A copy of the Commission or Agreement State license, the permit issued by a Commission master material licensee, the permit issued by a Commission or Agreement State licensee of broad scope, the permit issued by a Commission master material license broad scope permittee, or documentation that only accelerator-produced radioactive materials, discrete sources of radium-226, or both, were used for medical use or in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC for each individual that the licensee permits to work under the provisions of this section. The licensee shall only permit the individual to work with materials and uses previously authorized as an authorized user, an authorized medical physicist, ophthalmic physicist, or an authorized nuclear pharmacist under § 35.13(b).

(b) A licensee shall notify the Commission no later than 30 days after:

(1) An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer, an Associate Radiation Safety Officer, an authorized medical physicist, or ophthalmic physicist permanently discontinues performance of duties under the license or has a name change;

(2) The licensee permits an individual qualified to be a Radiation Safety Officer under §§ 35.50 and 35.59 to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer in accordance with § 35.24(c);

(3) The licensee's mailing address changes;

(4) The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in § 30.34(b) of this chapter;

(5) The licensee has added to or changed the areas of use identified in the application or on the license where byproduct material is used in accordance with either—

(i) § 35.100 or § 35.200 if the change does not include addition or relocation of either an area where PET radionuclides are produced, or

(ii) A PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area; or

(6) The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in section 35.13(i). The notification must include the manufacturer and model number of the sealed source, the isotope, and the quantity per sealed source.

* * * * *

■ 10. In § 35.24, revise paragraphs (b) and (c) to read as follows:

§ 35.24 Authority and responsibilities for the radiation protection program.

* * * * *

(b) A licensee's management shall appoint a Radiation Safety Officer who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. The Radiation Safety Officer may delegate duties and tasks but shall not delegate the authority or responsibilities for implementing the radiation protection program. A licensee's management may appoint, in writing, one or more Associate Radiation Safety Officers to support the Radiation Safety Officer. The Radiation Safety Officer, with written agreement of the licensee's management, must assign the specific duties and tasks to each Associate Radiation Safety Officer. The Associate Radiation Safety Officer must agree, in writing, to the list of the specific duties and tasks. These duties and tasks are restricted to the types of use for which the Associate Radiation Safety Officer has radiation safety training.

(c) For up to 60 days each year, a licensee may permit an individual qualified to be a Radiation Safety Officer, under §§ 35.50 and 35.59, to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer, as provided in paragraph (g) of this section, if the licensee takes the actions required in paragraphs (b), (e), (g), and (h) of this section and notifies the Commission in accordance with § 35.14(b).

* * * * *

■ 11. In § 35.40, revise paragraphs (b) and (c) to read as follows:

§ 35.40 Written directives.

* * * * *

(b) The written directive must contain the patient or human research subject's name and the following information—

(1) For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I–131: The dosage;

(2) For an administration of a therapeutic dosage of unsealed byproduct material other than sodium iodide I–131: The radioactive drug, dosage, and route of administration;

(3) For gamma stereotactic radiosurgery: The total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;

(4) For teletherapy: The total dose, dose per fraction, number of fractions, and treatment site;

(5) For high dose-rate remote afterloading brachytherapy: The radionuclide, treatment site, dose per fraction, number of fractions, and total dose;

(6) For permanent implant brachytherapy:

(i) Before implantation: The treatment site, the radionuclide, the intended absorbed dose to the treatment site and the corresponding calculated total source strength required, and if appropriate, the expected absorbed doses to normal tissues located within the treatment site; and

(ii) After implantation but before the patient leaves the post-treatment recovery area: The number of sources implanted, the total source strength implanted, the signature of an authorized user for § 35.400 uses for manual brachytherapy, and the date; or

(7) For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:

(i) Before implantation: Treatment site, the radionuclide, and dose; and

(ii) After implantation but before completion of the procedure: The radionuclide, treatment site, number of sources, total source strength and exposure time (or the total dose), the signature of an authorized user for § 35.400 uses for manual brachytherapy, and the date.

(c)(1) A written revision to an existing written directive may be made if the revision is dated and signed by an authorized user before the administration of the dosage of unsealed

byproduct material, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next fractional dose.

(2) If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within 48 hours of the oral revision.

* * * * *

■ 12. In § 35.41, revise paragraph (b) to read as follows:

§ 35.41 Procedures for administrations requiring a written directive.

* * * * *

(b) At a minimum, the procedures required by paragraph (a) of this section must address the following items that are applicable to the licensee's use of byproduct material—

(1) Verifying the identity of the patient or human research subject;

(2) Verifying that the administration is in accordance with the treatment plan, if applicable, and the written directive;

(3) Checking both manual and computer-generated dose calculations;

(4) Verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical units authorized by §§ 35.600 or 35.1000;

(5) Determining if a medical event, as defined in § 35.3045, has occurred; and

(6) Determining, for permanent implant brachytherapy, within 60 calendar days from the date the implant was performed unless accompanied by a written justification related to patient unavailability:

(i) The total source strength administered outside of the treatment site compared to the total source strength documented in the post-implantation portion of the written directive;

(ii) The absorbed dose to the maximally exposed 5 contiguous cubic centimeters of normal tissue located outside of the treatment site; and

(iii) The absorbed dose to the maximally exposed 5 contiguous cubic centimeters of normal tissue located within the treatment site.

* * * * *

■ 13. Revise § 35.50 to read as follows:

§ 35.50 Training for Radiation Safety Officer and Associate Radiation Safety Officer.

Except as provided in § 35.57, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer or an individual assigned the duties and tasks as an Associate Radiation Safety Officer as provided in § 35.24 to be an individual who—

(a) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in paragraph (d) of this section. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(1)(i) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;

(ii) Have 5 or more years of professional experience in health physics (graduate training may be substituted for no more than 2 years of the required experience) including at least 3 years in applied health physics; and

(iii) Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

(2)(i) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(ii) Have 2 years of full-time practical training and/or supervised experience in medical physics—

(A) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(B) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users in §§ 35.57, 35.290, or 35.390; and

(iii) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

(b)(1) Has completed a structured educational program consisting of both:

(i) 200 hours of classroom and laboratory training in the following areas—

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Radiation biology; and

(E) Radiation dosimetry; and

(ii) One year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on a Commission or an Agreement State license or permit issued by a Commission master material licensee that authorizes similar type(s) of use(s) of byproduct material. An Associate Radiation Safety Officer may provide supervision for those areas for which the Associate Radiation Safety Officer is authorized on a Commission or an Agreement State license or permit issued by a Commission master material licensee. The full-time radiation safety experience must involve the following—

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;

(C) Securing and controlling byproduct material;

(D) Using administrative controls to avoid mistakes in the administration of byproduct material;

(E) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

(F) Using emergency procedures to control byproduct material;

(G) Disposing of byproduct material; and

(2) This individual must obtain a written attestation, signed by a preceptor Radiation Safety Officer or Associate Radiation Safety Officer who has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual is seeking approval as a Radiation Safety Officer or an Associate Radiation Safety Officer. The written attestation must state that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (d) of this section, and is able to independently fulfill the radiation safety-related duties as a Radiation Safety Officer or as an Associate Radiation Safety Officer for a medical use license; or

(c)(1) Is a medical physicist who has been certified by a specialty board whose certification process has been

recognized by the Commission or an Agreement State under § 35.51(a) and has experience in radiation safety for similar types of use of byproduct material for which the licensee is seeking the approval of the individual as Radiation Safety Officer or an Associate Radiation Safety Officer and who meets the requirements in paragraph (d) of this section; or

(2) Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on a Commission or an Agreement State license, a permit issued by a Commission master material licensee, a permit issued by a Commission or an Agreement State licensee of broad scope, or a permit issued by a Commission master material license broad scope permittee and has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual has Radiation Safety Officer responsibilities or Associate Radiation Safety Officer duties and tasks and who meets the requirements in paragraph (d) of this section; or

(3) Has experience with the radiation safety aspects of the types of use of byproduct material for which the individual is seeking simultaneous approval both as the Radiation Safety Officer and the authorized user on the same new Commission or Agreement State license; and

(d) Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, an Associate Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

■ 14. In § 35.51, revise the introductory text of paragraph (a), and revise paragraphs (a)(2)(i) and (b)(2) to read as follows:

§ 35.51 Training for an authorized medical physicist.

* * * * *

(a) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in paragraph (c) of this section. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

* * * * *

(2) * * *

(i) Under the supervision of a medical physicist who is certified in medical physics by a specialty board whose certification process has been recognized under this section by the Commission or an Agreement State; or

* * * * *

(b) * * *

(2) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (c) of this section, and is able to independently fulfill the radiation safety-related duties as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in §§ 35.51, 35.57, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

* * * * *

■ 15. In § 35.55, revise the introductory text of paragraph (a) and revise paragraph (b)(2) to read as follows:

§ 35.55 Training for an authorized nuclear pharmacist.

* * * * *

(a) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

* * * * *

(b) * * *

(2) Has obtained written attestation, signed by a preceptor-authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in paragraph (b)(1) of this section and is able to independently fulfill the radiation safety-related duties as an authorized nuclear pharmacist.

■ 16. Revise § 35.57 to read as follows:

§ 35.57 Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.

(a)(1) An individual identified on a Commission or an Agreement State license or a permit issued by a Commission or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope as a Radiation Safety Officer, a teletherapy or medical physicist, an authorized medical physicist, a nuclear pharmacist or an authorized nuclear pharmacist on or before October 24, 2005, need not comply with the training requirements of §§ 35.50, 35.51, or 35.55, respectively. After January 20, 2015, Radiation Safety Officers and authorized medical physicists identified in this paragraph must meet the training requirements in § 35.50(d) or § 35.51(c), as appropriate, for any material or uses for which they were not authorized prior to this date.

(2) Any individual certified by the American Board of Health Physics in Comprehensive Health Physics; American Board of Radiology; American Board of Nuclear Medicine; American Board of Science in Nuclear Medicine; Board of Pharmaceutical Specialties in Nuclear Pharmacy; American Board of Medical Physics in radiation oncology physics; Royal College of Physicians and Surgeons of Canada in nuclear medicine; American Osteopathic Board of Radiology; or American Osteopathic Board of Nuclear Medicine on or before October 24, 2005, need not comply with the training requirements of § 35.50 to be identified as a Radiation Safety Officer or as an Associate Radiation Safety Officer on a Commission or an Agreement State license or Commission master material license permit for those materials and uses that these individuals performed on or before October 24, 2005.

(3) Any individual certified by the American Board of Radiology in therapeutic radiological physics, Roentgen ray and gamma ray physics, x-ray and radium physics, or radiological physics, or certified by the American Board of Medical Physics in radiation oncology physics, on or before October 24, 2005, need not comply with the training requirements for an authorized medical physicist described in § 35.51, for those materials and uses that these individuals performed on or before October 24, 2005.

(4) A Radiation Safety Officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the

training requirements of § 35.50, § 35.51 or § 35.55, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and time period identified in this paragraph, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for purposes of this chapter.

(b)(1) Physicians, dentists, or podiatrists identified as authorized users for the medical use of byproduct material on a license issued by the Commission or an Agreement State, a permit issued by a Commission master material licensee, a permit issued by a Commission or an Agreement State broad scope licensee, or a permit issued by a Commission master material license broad scope permittee before October 24, 2005, who perform only those medical uses for which they were authorized on or before that date need not comply with the training requirements of subparts D through H of this part.

(2) Physicians, dentists, or podiatrists not identified as authorized users for the medical use of byproduct material on a license issued by the Commission or an Agreement State, a permit issued by a Commission master material licensee, a permit issued by a Commission or an Agreement State broad scope licensee, or a permit issued by a Commission master material license of broad scope before October 24, 2005, need not comply with the training requirements of Subparts D through H of this part for those materials and uses that these individuals performed before October 24, 2005, as follows:

(i) For uses authorized under § 35.100 or § 35.200, or oral administration of sodium iodide I–131 requiring a written directive for imaging and localization purposes, a physician who was certified on or before October 24, 2005, in nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology by the American Board of Radiology; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or American Osteopathic Board of Nuclear Medicine in nuclear medicine;

(ii) For uses authorized under § 35.300, a physician who was certified on or before October 24, 2005, by the American Board of Nuclear Medicine; the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or the American Osteopathic Board of Radiology after 1984;

(iii) For uses authorized under § 35.400 or § 35.600, a physician who was certified on or before October 24, 2005, in radiology, therapeutic radiology or radiation oncology by the American Board of Radiology; radiation oncology by the American Osteopathic Board of Radiology; radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; and

(iv) For uses authorized under § 35.500, a physician who was certified on or before October 24, 2005, in radiology, diagnostic radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or nuclear medicine by the Royal College of Physicians and Surgeons of Canada.

(3) Physicians, dentists, or podiatrists who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of subparts D through H of this part when performing the same medical uses. A physician, dentist, or podiatrist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this paragraph, qualifies as an authorized user for those materials and uses performed before these dates, for purposes of this chapter.

(c) Individuals who need not comply with training requirements as described in this section may serve as preceptors for, and supervisors of, applicants seeking authorization on NRC licenses for the same uses for which these individuals are authorized.

■ 17. Revise § 35.65 to read as follows:

§ 35.65 Authorization for calibration, transmission, and reference sources.

(a) Any person authorized by § 35.11 for medical use of byproduct material may receive, possess, and use any of the following byproduct material for check, calibration, transmission, and reference use:

(1) Sealed sources, not exceeding 1.11 GBq (30 mCi) each, manufactured and distributed by a person licensed under § 32.74 of this chapter or equivalent Agreement State regulations;

(2) Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under § 32.74 of this chapter or equivalent Agreement State regulations, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions;

(3) Any byproduct material with a half-life not longer than 120 days in individual amounts not to exceed 0.56 GBq (15 mCi);

(4) Any byproduct material with a half-life longer than 120 days in individual amounts not to exceed the smaller of 7.4 MBq (200 micro Ci) or 1000 times the quantities in appendix B of part 30 of this chapter; or

(5) Technetium-99m in amounts as needed.

(b) Byproduct material authorized by this provision shall not be:

(1) Used for medical use as defined in § 35.2 except in accordance with the requirements in § 35.500; or

(2) Combined to create (i.e., bundled or aggregated) an activity greater than the maximum activity of any single sealed source authorized under this section.

(c) A licensee using calibration, transmission, and reference sources in accordance with the requirements in paragraphs (a) or (b) of this section need not list these sources on a specific medical use license.

■ 18. In § 35.190, revise the introductory text of paragraph (a) and revise paragraph (c)(2) to read as follows:

§ 35.190 Training for uptake, dilution, and excretion studies.

* * * * *

(a) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

* * * * *

(c) * * *

(2) Has obtained written attestation that the individual has satisfactorily

completed the requirements in paragraph (c)(1) of this section and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under § 35.100. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.190, 35.290, or 35.390, or equivalent Agreement State requirements; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in §§ 35.57, 35.190, 35.290, or 35.390, or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.190.

■ 19. In § 35.204, revise paragraph (b) and add a new paragraph (e) to read as follows:

§ 35.204 Permissible molybdenum-99, strontium-82, and strontium-85 concentrations.

* * * * *

(b) A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration in each eluate after receipt of a generator to demonstrate compliance with paragraph (a) of this section.

* * * * *

(e) The licensee shall report any measurement that exceeds the limits in paragraph (a) of this section, in accordance with § 35.3204.

■ 20. In § 35.290, revise the introductory text of paragraphs (a) and (c)(1)(ii), and paragraph (c)(2) to read as follows:

§ 35.290 Training for imaging and localization studies.

* * * * *

(a) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

* * * * *

(c)(1) * * *

(ii) Work experience, under the supervision of an authorized user who meets the requirements in §§ 35.57, 35.290, or 35.390 and 35.290(c)(1)(ii)(G), or equivalent Agreement State requirements. An authorized nuclear pharmacist who meets the requirements in §§ 35.55 or 35.57 may provide the supervised work experience for paragraph (c)(1)(ii)(G) of this section. Work experience must involve—

* * * * *

(2) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraph (c)(1) of this section and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under §§ 35.100 and 35.200. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.290, or 35.390 and 35.290(c)(1)(ii)(G) or equivalent Agreement State requirements; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in §§ 35.57, 35.290, or 35.390 and 35.290(c)(1)(ii)(G), or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.290.

■ 21. In § 35.300, revise introductory text to read as follows:

§ 35.300 Use of unsealed byproduct material for which a written directive is required.

A licensee may use any unsealed byproduct material identified in § 35.390(b)(1)(ii)(G) prepared for medical use and for which a written directive is required that is—

* * * * *

■ 22. In § 35.390, revise the introductory text of paragraph (a), and revise paragraphs (b)(1)(ii)(G) and (b)(2), and add a new paragraph (c) to read as follows:

§ 35.390 Training for use of unsealed byproduct material for which a written directive is required.

* * * * *

(a) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in paragraphs (b)(1)(ii)(G) of this section. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page). To be recognized, a specialty board shall require all candidates for certification to:

* * * * *

(b)(1) * * *

(ii) * * *

(G) Administering dosages of radioactive drugs to patients or human research subjects from the four categories in this paragraph. Radioactive drugs in categories not included in this paragraph are regulated under § 35.1000. This work experience must involve a minimum of three cases in each of the following categories for which the individual is requesting authorized user status—

(*1*) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I–131, for which a written directive is required;

(*2*) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I–131; [2]

(*3*) Parenteral administration of any radionuclide that is primarily used for its electron emission, beta radiation characteristics, or for its photon energy of less than 150 keV, for which a written directive is required;

(*4*) Parenteral administration of any radionuclide that is primarily used for its alpha radiation characteristics, for which a written directive is required; and

(2) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraph (b)(1) of this section and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under § 35.300 for which the individual is requesting authorized user status. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.390, or equivalent Agreement State requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or

(ii) A residency program director who affirms in writing that the attestation

represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in § 35.57, 35.390, or equivalent Agreement State requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.390; or

(c) Is an authorized user for any of the parenteral administrations specified in § 35.390(b)(1)(ii)(G) or equivalent Agreement State requirements. This individual must meet the supervised work experience requirements in (b)(1)(ii) of this section for each new parenteral administration listed in § 35.390(b)(1)(ii)(G) for which the individual is requesting authorized user status.

* * * * *

[2] Experience with at least three cases in Category (G)(*2*) also satisfies the requirement in Category (G)(*1*).

■ 23. In § 35.392, revise paragraphs (a) and (c)(3) to read as follows:

§ 35.392 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries).

* * * * *

(a) Is certified by a medical specialty board whose certification process includes all of the requirements in paragraphs (c)(1) and (c)(2) of this section and whose certification process has been recognized by the Commission or an Agreement State. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.); or

* * * * *

(c) * * *

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section, and is able to independently fulfill the radiation safety-related duties as an authorized user for oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I–131 for medical uses authorized under § 35.300. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.390, 35.392, 35.394, or equivalent Agreement State requirements and has experience in administering dosages as specified in §§ 35.390(b)(1)(ii)(G)(*1*) or 35.390(b)(1)(ii)(G)(*2*); or (ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in §§ 35.57, 35.390, 35.392, 35.394, or equivalent Agreement State requirements, has experience in administering dosages as specified in §§ 35.390(b)(1)(ii)(G)(*1*) or 35.390(b)(1)(ii)(G)(*2*), and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.392.

■ 24. In § 35.394, revise paragraphs (a) and (c)(3) to read as follows:

§ 35.394 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).

* * * * *

(a) Is certified by a medical specialty board whose certification process includes all of the requirements in paragraphs (c)(1) and (c)(2) of this section, and whose certification has been recognized by the Commission or an Agreement State. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.); or

* * * * *

(c) * * *

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section, and is able to independently fulfill the radiation safety-related duties as an authorized user for oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I–131 for medical uses authorized under § 35.300. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.390, 35.394, or equivalent Agreement State requirements, and has experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*); or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in §§ 35.57, 35.390, 35.394, or equivalent Agreement State requirements, has experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*), and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.394.

■ 25. Revise § 35.396 to read as follows:

§ 35.396 Training for the parenteral administration of unsealed byproduct material requiring a written directive.

Except as provided in § 35.57, the licensee shall require an authorized user for the parenteral administration requiring a written directive, to be a physician who—

(a) Is an authorized user under § 35.390 for uses listed in § 35.390(b)(1)(ii)(G)(*3*) or (b)(1)(ii)(G)(*4*), or equivalent Agreement State requirements. This individual must meet the supervised work experience requirements in (d)(2) of this section for each new parenteral administration listed in § 35.390(b)(1)(ii)(G) for which the individual is requesting authorized user status;

(b) Is an authorized user under §§ 35.490, 35.690, or equivalent Agreement State requirements and who meets the requirements in paragraph (d) of this section;

(c) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State under §§ 35.490 or 35.690, and who meets the requirements in paragraph (d) of this section; or

(d)(1) Has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations listed in § 35.390(b)(1)(ii)(G). The training must include—

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use; and

(v) Radiation biology; and

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.57, 35.390, 35.396, or equivalent Agreement State requirements, in the parenteral administrations listed in § 35.390(b)(1)(ii)(G). A supervising authorized user who meets the requirements in §§ 35.390, 35.396, or equivalent Agreement State requirements, must have experience in administering dosages in the same category or categories as the individual requesting authorized user status. The work experience must involve—

(i) Ordering, receiving, and unpacking radioactive materials safely, and performing the related radiation surveys;

(ii) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(v) Using procedures to contain spilled byproduct material safely, and using proper decontamination procedures; and

(vi) Administering dosages to patients or human research subjects, that include at least three cases in each category of the parenteral administrations as specified in § 35.390(b)(1)(ii)(G) for which the individual is requesting authorized user status; and

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraph (d)(1) and (d)(2) of this section, and is able to independently fulfill the radiation safety-related duties as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.390, 35.396, or equivalent Agreement State requirements. A preceptor authorized user who meets the requirements in § 35.390, 35.396, or equivalent Agreement State requirements, must have experience in administering dosages in the same category or categories as the individual requesting authorized user status; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in §§ 35.57, 35.390, 35.396, or equivalent Agreement State requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.396.

■ 26. Revise § 35.400 to read as follows:

§ 35.400 Use of sources for manual brachytherapy.

A licensee must use only brachytherapy sources:

(a) Approved in the Sealed Source and Device Registry to deliver therapeutic doses for medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry; or

(b) In research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of § 35.49(a) are met.

■ 27. Revise § 35.433 to read as follows:

§ 35.433 Strontium-90 sources for ophthalmic treatments.

(a) Licensees who use strontium-90 for ophthalmic treatments must ensure that certain activities as specified in paragraph (b) of this section are performed by either:

(1) An authorized medical physicist; or

(2) An individual who holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university and has successfully completed 2 years of full-time practical training and/or supervised experience in medical physics and has documented training in:

(i) The creating, modifying, and completing of written directives;

(ii) Procedures for administrations requiring a written directive; and

(iii) Performing the calibration measurements of brachytherapy sources as detailed in § 35.432.

(b) The individuals who are identified in paragraph (a) of this section must:

(1) Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under § 35.432; and

(2) Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in paragraph (a) of this section will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the administrations were in accordance with the written directives.

(c) Licensees must retain a record of the activity of each strontium-90 source in accordance with § 35.2433.

■ 28. In § 35.490, revise the introductory text of paragraphs (a) and (b)(1)(ii), and paragraph (b)(3) to read as follows:

§ 35.490 Training for use of manual brachytherapy sources.

* * * * *

(a) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

* * * * *

(b)(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in §§ 35.57, 35.490, or equivalent Agreement State requirements, at a medical facility authorized to use byproduct materials under § 35.400, involving—

* * * * *

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (b)(2) of this section and is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized under § 35.400. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.490, or equivalent Agreement State requirements; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in §§ 35.57, 35.490, or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.490.

■ 29. In § 35.491, revise paragraph (b)(3) to read as follows:

§ 35.491 Training for ophthalmic use of strontium-90.

* * * * *

(b)(1) * * *

(3) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in §§ 35.57, 35.490, 35.491, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (b) of this section and is able to independently fulfill the radiation safety-related duties as an authorized user of strontium-90 for ophthalmic use.

■ 30. Revise § 35.500 to read as follows:

§ 35.500 Use of sealed sources and medical devices for diagnosis.

(a) A licensee must use only sealed sources not in medical devices for diagnostic medical uses that are approved in the Sealed Source and Device Registry for diagnostic medicine. The sealed sources may be used for diagnostic medical uses that are not explicitly listed in the Sealed Source and Device Registry. The sealed sources must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry.

(b) A licensee must only use diagnostic devices containing sealed sources for diagnostic medical uses if both the sealed sources and diagnostic devices are approved in the Sealed Source and Device Registry for diagnostic medical uses. The diagnostic medical devices may be used for diagnostic medical uses that are not explicitly listed in the Sealed Source and Device Registry but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry.

(c) Sealed sources and devices for diagnostic medical uses may be used in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of § 35.49(a) are met.

■ 31. Revise § 35.590 to read as follows:

§ 35.590 Training for use of sealed sources and medical devices for diagnosis.

Except as provided in § 35.57, the licensee shall require the authorized user of a diagnostic sealed source or a device authorized under § 35.500 to be a physician, dentist, or podiatrist who—

(a) Is certified by a specialty board whose certification process includes all of the requirements in paragraphs (c) and (d) of this section and whose certification has been recognized by the Commission or an Agreement State. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.);

(b) Is an authorized user for imaging uses listed in § 35.200 or equivalent Agreement State requirements; or

(c) Has completed 8 hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include—

(1) Radiation physics and instrumentation;

(2) Radiation protection;

(3) Mathematics pertaining to the use and measurement of radioactivity; and

(4) Radiation biology; and

(d) Has completed training in the use of the device for the uses requested.

■ 32. Revise § 35.600 to read as follows:

§ 35.600 Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit.

(a) A licensee must only use sealed sources:

(1) Approved and as provided for in the Sealed Source and Device Registry in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units to deliver therapeutic doses for medical uses: or

(2) In research involving photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of § 35.49(a) are met.

(b) A licensee must use photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units:

(1) Approved in the Sealed Source and Device Registry to deliver a therapeutic dose for medical use. These devices may be used for therapeutic medical treatments that are not explicitly provided for in the Sealed Source and Device Registry, but must be used in accordance with radiation safety conditions and limitations described in the Sealed Source and Device Registry; or

(2) In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of § 35.49(a) are met.

■ 33. In § 35.610, revise paragraphs (d) and (g) to read as follows:

§ 35.610 Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.

* * * * *

(d)(1) Prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit, a licensee shall ensure that vendor operational and safety instructions are provided to all individuals who will operate the unit. The vendor operational and safety instructions must be provided by the device manufacturer or by individuals certified by the device manufacturer.

(2) A licensee shall provide operational and safety instructions initially and at least annually to all individuals who operate the unit at the facility, as appropriate to the individual's assigned duties. The instructions shall include instruction in—

(i) The procedures identified in paragraph (a)(4) of this section; and

(ii) The operating procedures for the unit.

* * * * *

(g) A licensee shall retain a copy of the procedures required by paragraphs (a)(4) and (d)(2)(ii) of this section in accordance with § 35.2610.

■ 34. In § 35.655, revise the section heading and paragraph (a) to read as follows:

§ 35.655 Full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units.

(a) A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during each source replacement to assure proper functioning of the source exposure mechanism and other safety components. The interval between each full-inspection servicing shall not exceed 5 years for each teletherapy unit

and shall not exceed 7 years for each gamma stereotactic radiosurgery unit.

* * * * *

■ 35. In § 35.690, revise the introductory text of paragraphs (a) and (b)(1)(ii), and paragraph (b)(3) to read as follows:

§ 35.690 Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.

* * * * *

(a) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in paragraph (c) of this section. (The names of board certifications that have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

* * * * *

(b)(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in §§ 35.57, 35.690, or equivalent Agreement State requirements, at a medical facility that is authorized to use byproduct materials in § 35.600, involving—

* * * * *

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (b)(2), and paragraph (c), of this section, is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The attestation must be obtained from either.

(i) A preceptor authorized user who meets the requirements in §§ 35.57, 35.690, or equivalent Agreement State requirements for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in §§ 35.57, 35.690, or equivalent Agreement State requirements, for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association and must include training and experience specified in § 35.690;

* * * * *

■ 36. In § 35.2024, add a new paragraph (c) to read as follows:

§ 35.2024 Records of authority and responsibilities for radiation protection programs.

* * * * *

(c) For each Associate Radiation Safety Officer appointed under § 35.24(b), the licensee shall retain, for 5 years after the Associate Radiation Safety Officer is removed from the license, a copy of:

(1) The written document appointing the Associate Radiation Safety Officer signed by the licensee's management; and

(2) Each agreement signed by the Associate Radiation Safety Officer listing the duties and tasks assigned by the Radiation Safety Officer under § 35.24(b).

■ 37. Revise § 35.2310 to read as follows:

§ 35.2310 Records of safety instruction.

A licensee shall maintain a record of safety instructions required by §§ 35.310, 35.410, and the operational and safety instructions required by § 35.610 for 3 years. The record must include a list of the topics covered, the date of the instruction, the name(s) of the attendee(s), and the name(s) of the individual(s) who provided the instruction.

■ 38. In § 35.2655, revise the section heading and paragraph (a) to read as follows:

§ 35.2655 Records of full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units.

(a) A licensee shall maintain a record of the full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units required by § 35.655 for the duration of use of the unit.

* * * * *

■ 39. In § 35.3045, revise paragraph (a) to read as follows:

§ 35.3045 Report and notification of a medical event.

(a) A licensee shall report as a medical event any administration requiring a written directive, except for an event that results from patient intervention, in which—

(1) The administration of byproduct material or radiation from byproduct material, except permanent implant brachytherapy, results in—

(i) A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and

(A) The total dose delivered differs from the prescribed dose by 20 percent or more;

(B) The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or

(C) The fractionated dose delivered differs from the prescribed dose for a single fraction, by 50 percent or more.

(ii) A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following—

(A) An administration of a wrong radioactive drug containing byproduct material or the wrong radionuclide for a brachytherapy procedure;

(B) An administration of a radioactive drug containing byproduct material by the wrong route of administration;

(C) An administration of a dose or dosage to the wrong individual or human research subject;

(D) An administration of a dose or dosage delivered by the wrong mode of treatment; or

(E) A leaking sealed source.

(iii) A dose to the skin or an organ or tissue other than the treatment site that exceeds by:

(A) 0.5 Sv (50 rem) or more the expected dose to that site from the procedure if the administration had been given in accordance with the written directive prepared or revised before administration; and

(B) 50 percent or more the expected dose to that site from the procedure if the administration had been given in accordance with the written directive prepared or revised before administration.

(2) For permanent implant brachytherapy, the administration of byproduct material or radiation from byproduct material that results in—

(i) The total source strength administered differing by 20 percent or more from the total source strength documented in the post-implantation portion of the written directive;

(ii) The total source strength administered outside of the treatment site exceeding 20 percent of the total source strength documented in the post-implantation portion of the written directive;

(iii) An absorbed dose to the maximally exposed 5 contiguous cubic

centimeters of normal tissue located outside of the treatment site that exceeds by 50 percent or more the absorbed dose prescribed to the treatment site in the pre-implantation portion of the written directive approved by an authorized user;

(iv) An absorbed dose to the maximally exposed 5 contiguous cubic centimeters of normal tissue located within the treatment site that exceeds by 50 percent or more the absorbed dose to that tissue based on the pre-implantation dose distribution approved by an authorized user; or

(v) An administration that includes any of the following—

(A) The wrong radionuclide;

(B) The wrong individual or human research subject;

(C) Sealed source(s) directly delivered to the wrong treatment site;

(D) A leaking sealed source resulting in a dose that exceeds 0.5 Sv (50 rem) to an organ or tissue; or

(E) A 20 percent or more error in calculating the total source strength documented in the pre-implantation portion of the written directive.

* * * * *

■ 40. Add a new § 35.3204 to read as follows:

§ 35.3204 Report and notification for an eluate exceeding permissible molybdenum-99, strontium-82, and strontium-85 concentrations.

(a) The licensee shall notify by telephone the NRC Operations Center and the manufacturer/distributor of the generator within 30 calendar days after discovery that an eluate exceeded the permissible concentration listed in § 35.204(a). The telephone report to the NRC must include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects, whether the manufacturer/distributor was notified: And the action taken.

(b) By an appropriate method listed in § 30.6(a) of this chapter, the licensee shall submit a written report to the appropriate NRC Regional Office listed in § 30.6 of this chapter within 45 days after discovery of an eluate exceeding the permissible concentration. The written report must include the action taken by the licensee; the patient dose assessment; the methodology used to make this dose assessment if the eluate was administered to patients or human research subjects; and probable cause and assessment of failure in the licensee's equipment, procedures or training that contributed to the excessive readings if an error occurred in the licensee's breakthrough determination, and the information in the telephone report as required by paragraph (a) of this section.

Dated at Rockville, Maryland, this 10th day of July, 2014.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Acting, Secretary of the Commission.

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