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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2641

**RIN 3209–AA14**

## Post-Employment Conflict of Interest Regulations; Exempted Senior Employee Positions

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule; revocation of exemptions.

**SUMMARY:** The Office of Government Ethics is issuing this final rule to provide notice of the revocation of certain regulatory exemptions of senior employee positions at the Securities and Exchange Commission from certain criminal post-employment restrictions.

**DATES:** This rule is effective without further notice on April 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Swartz, Assistant Counsel, Ethics Law & Policy Branch, Office of Government Ethics; telephone: 202–482–9300; TTY: 800–877–8339; FAX: 202–482–9237.

**SUPPLEMENTARY INFORMATION:**

### I. Substantive Discussion: Background and Revocation of Exemptions for Certain Positions

18 U.S.C. 207(c) prohibits a former ''senior employee'' for a period of one year from knowingly making, with the intent to influence, any communication to or appearance before an employee of the department or agency in which he served in any capacity during the one-year period prior to termination from senior service, if that communication or appearance is made on behalf of any other person, except the United States. For purposes of 18 U.S.C. 207(c), a ''senior employee'' includes, *inter alia*, any employee (other than an individual covered by the ''very senior employee'' one-year restriction in 18 U.S.C. 207(d)) who was employed in a position for which the rate of pay is specified in or fixed according to the Executive Schedule, in a position for which the rate of basic pay is equal to or greater than 86.5 percent of the rate of basic pay payable for level II of the Executive Schedule, or in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade is O–7 or above.

The representational bar of 18 U.S.C. 207(c) usually applies to all senior positions. However, 18 U.S.C. 207(c)(2)(C) provides that the Director of OGE may exempt any position or category of positions from the one-year prohibition under 18 U.S.C. 207(c) (and consequently the prohibition of 18 U.S.C. 207(f)), if the Director determines, after a review requested by the department or agency concerned, that the imposition of the restrictions with respect to the particular position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and that granting the waiver would not create the potential for use of undue influence or unfair advantage.

The Director of OGE regularly reviews these position exemptions and, in consultation with the department or agency concerned, makes such additions and deletions as are necessary. As specified in 5 CFR 2641.301(j)(3)(ii), the Director must respond to exemption and revocation requests from agency ethics officials and maintain a compilation of all exempted positions or categories of positions. Once an exemption has been granted, the Designated Agency Ethics Official at the relevant agency may, at any time, request that the exemption be revoked. *See* 5 CFR 2641.301(j)(3)(i). Under 5 CFR 2641.301(j)(4), the revocation of a waiver becomes effective 90 days after OGE has published notice of the revocation in the **Federal Register**. If a revocation is granted, all employees occupying positions covered by the exemption will become subject to the prohibitions of 18 U.S.C. 207(c) and (f) as of the effective date. However, any ''[i]ndividual who formerly served in a position for which a waiver of restrictions was applicable will not become subject to 18 U.S.C. 207(c) (or section 207(f)) if the waiver is revoked *after* [the employee's] termination from the position.'' *See* 5 CFR 2641.301(j)(4) (emphasis added).

In 1991, the Securities and Exchange Commission (SEC) requested, and was granted, exemptions for the positions of Solicitor, Office of the General Counsel and Chief Litigation Counsel, Division of Enforcement. In 2003, the SEC requested and was granted additional exemptions for the position of Deputy Chief Litigation Counsel, Division of Enforcement, SK–17 Positions, SK–16 and lower-graded SK positions supervised by employees in SK–17 positions, and SK–16 and lower-graded SK positions not supervised by employees in SK–17 positions. These exemptions were predicated on recruitment and retention considerations resulting from the implementation of a new pay system that converted many GS–15 positions into ''senior employee'' positions above the statutory pay threshold.

Pursuant to the procedures prescribed in 5 CFR 2641.301(j), in June 2013, the SEC requested that the Director of OGE revoke the exemptions for these positions. In support of its request, the SEC explained that the original bases for these exemptions no longer existed. In particular, the SEC indicated that it was no longer experiencing undue hardship in obtaining qualified personnel to fill the covered positions. Furthermore, the SEC indicated that discontinuing the exemptions would create parity between SEC employees occupying the covered positions and employees in similar positions at other financial regulatory agencies who are currently subject to the one year cooling-off prohibitions of 18 U.S.C. 207(c) and (f). For these reasons, the SEC no longer believed these exemptions to be necessary or desirable. Therefore, pursuant to 5 CFR 2641.301(j), OGE granted SEC's request, and on October 3, 2013, published notice in the **Federal Register**, at 78 FR 61153, revoking those exemptions and amending the listing of exempted positions maintained by OGE in Appendix A to part 2641 of title 5.

Following publication, but prior to the effective date, the SEC requested that OGE withdraw and rescind its publication of October 3, 2013, to allow the SEC more time to effectively educate affected employees before the exemption revocation took effect. OGE agreed, and on November 25, 2013, OGE

withdrew and rescinded the notice of revocation and final rule amending Appendix A to part 2641 of title 5. *See* 78 FR 70191. In the withdrawal notice, OGE indicated that it planned to republish this notice and final rule in January 2014.

Accordingly, OGE is now republishing that notice and final rule. OGE hereby gives notice that the above-referenced post-employment exemptions, granted on October 29, 1991; November 10, 2003; and December 4, 2003, respectively, will expire and are revoked effective on April 2, 2014. As of the effective date, a person occupying any one of these positions will become subject to the post-employment restrictions of 18 U.S.C. 207(c) and (f) if the rate of basic pay for the position is equal to or greater than 86.5 percent of the rate of basic pay payable for level II of the Executive Schedule.

As stated in 5 CFR 2641.301(j)(3)(ii), the Director of OGE is required to ''maintain a listing of positions or categories of positions in Appendix A to [5 CFR part 2641] for which the 18 U.S.C. 207(c) restriction has been waived.'' As such, Appendix A of this part is being amended to remove references to those SEC positions that are no longer exempt from the restrictions of 18 U.S.C. 207(c) and (f). These positions include: Solicitor, Office of General Counsel; Chief Litigation Counsel, Division of Enforcement; Deputy Chief Litigation Counsel, Division of Enforcement; SK–17 Positions; SK–16 and lower-graded SK positions supervised by employees in SK–17 positions; and SK–16 and lower-graded SK positions not supervised by employees in SK–17 positions.

## II. Matters of Regulatory Procedure

*Administrative Procedure Act*

Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b), OGE finds good cause to waive the notice-and-comment requirements of the APA, as the codification of OGE's revocation of exempted positions is technical in nature, and it is important and in the public interest that the codification of OGE's revocation of exempted positions be published in the **Federal Register** as promptly as possible. For these reasons, OGE is issuing this regulation as a final rule effective 90 days after publication.

*Regulatory Flexibility Act*

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this final rule would not have a significant economic impact on a substantial number of small entities because it primarily affects current and former Federal executive branch employees.

*Paperwork Reduction Act*

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

*Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 5, subchapter II), this final rule would not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

*Executive Order 12866*

In promulgating this final rule, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This rule has not been reviewed by the Office of Management and Budget under that Executive order since it is not ''significant'' under the order.

*Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

**List of Subjects in 5 CFR Part 2641**

Conflict of interests, Government employees.

Approved: December 18, 2013.

**Walter M. Shaub, Jr.,**

*Director, Office of Government Ethics.*

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending part 2641 of subchapter B of chapter XVI of title 5 of the Code of Federal Regulations as follows:

## PART 2641—POST-EMPLOYEMENT CONFLICT OF INTEREST RESTRICTIONS

■ 1. The authority citation for part 2641 continues to read as follows:

**Authority:** 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 207; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

**Appendix A to Part 2641 [Amended]**

■ 2. Appendix A to part 2641 is amended by removing the listing for the Securities and Exchange Commission (and all positions thereunder).

[FR Doc. 2013–30668 Filed 12–31–13; 8:45 am]

BILLING CODE 6345–03–P

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## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

### 6 CFR Part 5

**[Docket No. DHS–2013–0041]**

## Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security Transportation Security Administration, DHS/TSA–021, TSA Pre✓™ Application Program System of Records

**AGENCY:** Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a newly established system of records titled, ''Department of Homeland Security/Transportation Security Administration–021, TSA Pre✓™ Application Program System of Records,'' from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

**DATES:** Effective January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** For general questions please contact: Peter Pietra, TSA Privacy Officer, TSA–036, 601 South 12th Street, Arlington, VA 20598–6036; or email at *TSAprivacy@dhs.gov.* For privacy questions, please contact: Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

**SUPPLEMENTARY INFORMATION:**

## Background

The Department of Homeland Security (DHS)/Transportation Security Administration (TSA) published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**, 78 FR 55657 (Sept. 11, 2013), proposing to exempt portions of the newly established ''DHS/TSA–021, TSA Pre✓™ Application Program System of Records'' from one or more provisions of the Privacy Act

because of criminal, civil, and administrative enforcement requirements. The DHS/TSA–021 TSA Pre✓™ Application Program System of Records Notice (SORN) was published in the **Federal Register**, 78 FR 55274 (Sept. 10, 2013), and comments were invited on both the NPRM and SORN.

**Public Comments**

DHS received 12 comments on the NPRM and five comments on the SORN.

*NPRM*

Several comments exceeded the scope of the exemption rulemaking and chose instead to comment on TSA security measures. DHS/TSA will not respond to those comments.

DHS/TSA received a few comments that objected to the proposal to claim any exemptions from the Privacy Act for the release of information collected pursuant to the SORN. As stated in the NPRM, no exemption will be asserted regarding information in the system that is submitted by a person if that person, or his or her agent, seeks access to or amendment of such information. However, this system may contain records or information created or recompiled from information contained in other systems of records that are exempt from certain provisions of the Privacy Act, such as law enforcement or national security investigation or encounter records, or terrorist screening records. Disclosure of these records from other systems, as noted in the NPRM, could compromise investigatory material compiled for law enforcement or national security purposes. DHS will examine each request on a case-by-case basis and, after conferring with the appropriate component or agency, may waive applicable exemptions in appropriate circumstances and when it would not appear to interfere with or adversely affect the investigatory purposes of the systems from which the information is recompiled or in which it is contained.[1]

DHS/TSA received one comment from a private individual recommending that foreign service employees and their families be automatically included this program. The comment misapprehends the program for which the NPRM was published. The NPRM was published in association with the SORN for the TSA Pre✓™ Application program, which is designed to allow individuals to apply to be included in the program. Separately, DHS/TSA continues to evaluate populations that may otherwise be eligible for TSA Pre✓™ screening.

DHS/TSA received one comment from a private individual concerned that exemptions under the Privacy Act would allow TSA to engage in discriminatory conduct based on race and appearance, and that an individual whose application is denied would have limited recourse because TSA would not provide enough information. The security threat assessment involves recurrent checks against law enforcement, immigration, and intelligence databases. TSA does not make decisions regarding eligibility for the TSA Pre✓™ Application Program based on race or appearance. Eligibility for the TSA Pre✓™ Application Program is within the sole discretion of TSA, which will notify individuals who are denied eligibility in writing of the reasons for the denial. If initially deemed ineligible, applicants will have an opportunity to correct cases of misidentification or inaccurate criminal or immigration records. Individuals whom TSA determines are ineligible for the TSA Pre✓™ Application Program will continue to be screened at airport security checkpoints according to TSA standard screening protocols.

DHS/TSA received one comment from a public interest research center that asserting Privacy Act exemptions contravenes the intent of the Privacy Act. DHS does not agree that asserting exemptions provided within the Privacy Act contravenes the Privacy Act. As reflected in the OMB Privacy Act Implementation Guidelines, ''the drafters of the Act recognized that application of all the requirements of the Act to certain categories of records would have had undesirable and often unacceptable effects upon agencies in the conduct of necessary public business.'' 40 FR 28948, 28971 (July 9, 1975).

The same commenter recognized the need to withhold information pursuant to Privacy Act exemptions during the period of the investigation, but also stated that individuals should be able to receive such information after an investigation is completed or made public, with appropriate redactions to protect the identities of witnesses and informants. This commenter stated that such post-investigation disclosures would provide individuals with the ability to address potential inaccuracies in these records, and noted that the TSA Pre✓™ Application Program will provide applicants an opportunity to correct inaccurate or incomplete criminal records or immigration records.

As stated above, DHS will consider requests on a case-by-case basis, and in certain instances may waive applicable exemptions and release material that otherwise would be withheld. However, certain information gathered in the course of law enforcement or national security investigations or encounters, and created or recompiled from information contained in other exempt systems of records, will continue to be exempted from disclosure. Some of these records would reveal investigative techniques, sensitive security information, and classified information, or permit the subjects of investigations to interfere with related investigations. Continuing to exempt these sensitive records from disclosure is consistent with the intent and spirit of the Privacy Act. This information contained in a document qualifying for exemption does not lose its exempt status when recompiled in another record if the purposes underlying the exemption of the original document pertain to the recompilation as well.

While access under the Privacy Act may be withheld under an appropriate exemption, the DHS Traveler Redress Inquiry Program (DHS TRIP) is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs, and has been used by individuals whose names are the same or similar to those of individuals on watch lists. See *http://www.dhs.gov/dhs-trip.*

*SORN*

DHS/TSA received five comments on the SORN. One commenter asked if TSA Pre✓™ Application Program applicants would be advised as to the reasons for a denial of that application. As explained in the SORN and NPRM, TSA will notify applicants who are denied eligibility in writing of the reasons for the denial. If initially deemed ineligible, applicants will have an opportunity to correct cases of misidentification or inaccurate criminal or immigration records.

Consistent with 28 CFR 50.12 in cases involving criminal records, and before making a final eligibility decision, TSA will advise the applicant that the FBI

[1] The TSA Pre✓™ Application Program performs checks that are very similar to those performed for populations such as TSA Transportation Worker Identification Credential (TWIC) and Hazardous Material Endorsement (HME) programs. Accordingly, TSA proposed most of the same Privacy Act exemptions for the TSA Pre✓™ Application Program that are claimed for the applicable System of Records Notice for the TWIC and HME programs. The Privacy Act exemptions claimed from the Transportation Security Threat Assessment System of Records strike the right balance of permitting TWIC and HME applicants to correct errors or incomplete information in other systems of records that may affect their ability to receive one of these credentials, while also protecting sensitive law enforcement or national security information that may be included in other systems of records.

criminal record discloses information that would disqualify him or her from the TSA ✓™ Application Program. Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the applicant must notify TSA in writing of his or her intent to correct any information he or she believes to be inaccurate. The applicant must provide a certified revised record, or the appropriate court must forward a certified true copy of the information, prior to TSA approving eligibility of the applicant for the TSA ✓™ Application Program. With respect to immigration records, within 30 days after being advised that the immigration records indicate that the applicant is ineligible for the TSA Pre✓™ Application Program, the applicant must notify TSA in writing of his or her intent to correct any information believed to be inaccurate. TSA will review any information submitted and make a final decision. If neither notification nor a corrected record is received by TSA, TSA may make a final determination to deny eligibility.

One advocacy group stated that records of travel itineraries should be expunged because, as the commenter claimed, they are records of how individuals exercise their First Amendment rights. The TSA Pre✓™ Application Program neither requests nor maintains applicant travel itinerary records, so this comment is inapplicable.

Contrary to some commenters' assertion that the TSA Pre✓™ Application Program infringes upon an individual's right to travel, this program will provide an added convenience to the majority of the traveling public.

A public interest research center noted that according to the SORN, Known Traveler Numbers (KTNs) will be granted to individuals who pose a ''low'' risk to transportation security, while the Secure Flight regulation (see 49 CFR 1560.3) provides that when a known traveler program is instituted, individuals for whom the Federal government has conducted a security threat assessment and who do ''not pose a security threat'' will be provided a KTN. This commenter stated that DHS thus used the SORN to amend the Secure Flight regulation. DHS disagrees that the use of these two phrases constitutes a change in the Secure Flight regulation for who may receive a KTN. In response to comments on the Secure Flight proposed rule, TSA stated that it intended ''to develop and implement the Known Traveler Number as part of the Secure Flight program. . . .'' and that a KTN will be assigned to individuals ''for whom the Federal government has already conducted a terrorist security threat assessment and has determined does not pose a terrorist security threat.'' *See* 73 FR 64018, 64034 (Oct. 28, 2008).

TSA will compare TSA Pre✓™ Application Program applicants to terrorist watch lists to determine whether the individuals pose a terrorist threat, but its threat assessment also will include law enforcement records checks to determine whether applicants in other ways pose a security threat.[2] Applicants who are found to present a low risk to security, *i.e.,* they do not pose either a terrorist security threat nor a more general security threat, will be provided a KTN.[3]

The use of the phrase ''low risk'' is neither an expansion nor a contraction of the population that was anticipated to receive KTNs under the Secure Flight rule; rather, as the TSA Pre✓™ program was developed, the use of the term ''low risk'' was employed to more accurately describe who will receive a KTN. The TSA Pre✓™ Application Program is a trusted traveler program, not a program open to all except those who present a terrorist threat. This standard also is consistent with the statutory authorization TSA received from the Congress to ''[e]stablish requirements to implement trusted passenger programs and use available technologies to expedite security screening of passengers who participate in such programs, thereby allowing security screening personnel to focus on those passengers who should be subject to more extensive screening.'' See sec. 109(a)(3) of the Aviation and Transportation Security Act (ATSA), Public Law 107–71 (115 Stat. 597, 613, Nov. 19, 2001, codified at 49 U.S.C. 114 note).

TSA promulgated the Secure Flight rule under the Administrative Procedure Act (APA), 5 U.S.C. 553, and clearly indicated that TSA was still developing its KTN program. The method that TSA selected to determine who receives KTNs under the TSA Pre✓™ Application Program does not substantively affect the public to a degree sufficient to implicate the policy interests underlying notice-and-comment rulemaking requirements. As noted in the SORN, the TSA Pre✓™ Application Program does not impose any impediment on any individual traveler that is different from that experienced by the general traveling public, and individuals who TSA determines to be ineligible for the program will continue to be screened at airport security checkpoints according to TSA standard screening protocols. See 78 FR 55274, 55275. Specifically, a traveler denied admission into a TSA Pre✓™ lane because he or she does not have a KTN will face no greater screening impediment than anyone in the standard screening lane. Thus, notice-and-comment rulemaking is not required because the Secure Flight regulation notified the public that TSA would retain the ability to determine who might receive a KTN, and also because no new substantive burden or impediment for any traveler has been created. As such, the use of the phrase ''low risk'' does not constitute an amendment to the Secure Flight regulation.

The same commenter also suggested that TSA should make public its algorithms or thresholds for determining which TSA Pre✓™; Application Program applicants are approved. If TSA were to make its algorithms public, it would be possible for individuals who seek to disrupt civil aviation to circumvent the algorithms. Such disclosure would be contrary to TSA's mission and might endanger the flying public.

Other commenters suggested that applicant information should be destroyed immediately after providing eligible individuals a KTN. For those individuals granted KTNs, TSA will maintain the application data while the KTN is valid and for one additional year to ensure that the security mission of the agency is properly protected. Without the application data, TSA would be unable to identify instances of fraud, identity theft, evolving risks, and other security issues. Moreover, destruction of the underlying application information will hinder TSA's ability to assist KTN holders who

[2] As TSA developed its known traveler program under the Secure Flight rule, it determined that it would require a security threat assessment similar to the threat assessment used for the TWIC and HME programs. The threat assessments for the TWIC and HME programs compare applicant names to watch lists and to law enforcement records to determine whether applicants pose a terrorist threat or other security threat. As part of this assessment, certain criminal convictions (*e.g.,* espionage) are determined to be permanent bars to receiving a TWIC or HME, while other convictions (*e.g.,* smuggling) require a period of time to have passed post-conviction or post-imprisonment before the applicant will be considered for the program. See 49 CFR 1572.103. The TWIC and HME programs thus consider not only whether an applicant poses a terrorist threat, but also whether the applicant otherwise poses a security threat.

[3] In developing its known traveler program, TSA relied on its expertise in aviation security to determine that a ''threat'' includes a declaration of intent to cause harm, or something likely to cause harm. Furthermore, TSA determined that a ''risk'' only represents a chance of something going wrong or a possibility of danger. Therefore, TSA deemed that ''low risk'' individuals ''do not pose a security threat'' to aviation security.

have lost their numbers and could cause them to have to reapply for the program. TSA also will retain application data to protect applicants' right to correct underlying information in the case of an initial denial.

Two commenters questioned whether applicant information should be shared both within and outside DHS. TSA follows standard information-sharing principles among DHS components in accordance with the Privacy Act. In addition, TSA has narrowly tailored the routine uses that it has proposed to serve its mission and promote efficiency within the Federal Government.

A public interest research center objected to three of the routine uses proposed for the system of records, arguing that the routine uses would result in blanket sharing with law enforcement agencies, foreign entities, and the public for other purposes. DHS has considered the comment but disagrees. The exercise of any routine use is subject to the requirement that sharing be compatible with the purposes for which the information was collected.

Several commenters objected that the TSA Pre✓™ Application Program violates the U.S. Constitution or international treaty. DHS disagrees with the commenters as to the Constitutionality of the program, and notes that the treaty cited by an advocacy group expressly contradicts the position taken by the commenter by excluding requirements provided by law or necessary for national security from the treaty's proscription.

After careful consideration of public comments, the Department will implement the rulemaking as proposed.

**List of Subjects in 6 CFR Part 5**

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

## PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

**Authority:** 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. Add new paragraph 71 to Appendix C to Part 5 to read as follows:

**Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act**

* * * * *

71. The Department of Homeland Security (DHS)/Transportation Security Administration (TSA)-021 TSA Pre✓™ Application Program System of Records consists of electronic and paper records and will be used by DHS/TSA. The DHS/TSA–021 Pre✓™ Application Program System of Records is a repository of information held by DHS/TSA on individuals who voluntarily provide personally identifiable information (PII) to TSA in return for enrollment in a program that will make them eligible for expedited security screening at designated airports. This System of Records contains PII in biographic application data, biometric information, pointer information to law enforcement databases, payment tracking, and U.S. application membership decisions that support the TSA Pre✓™ Application Program membership decisions. The DHS/TSA–021 TSA Pre✓™ Application Program System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain PII collected by other federal, state, local, tribal, territorial, or foreign government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f). Where a record received from another system has been exempted in that source system under 5 U.S.C. 552a(k)(1) and (k)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting also would permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to the existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, potential witnesses, and confidential informants.

Dated: December 20, 2013.

**Karen L. Neuman,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2013–31183 Filed 12–31–13; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Part 271, 272, 274, 276, and 277

**RIN 0584–AD99**

### Automated Data Processing and Information Retrieval System Requirements: System Testing

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food and Nutrition Service (FNS) is adopting as a final rule, without substantive changes, the proposed rule that amends the Supplemental Nutrition Assistance Program (SNAP) regulations to implement Section 4121 of the Food, Conservation, and Energy Act of 2008 (the Farm Bill), which requires adequate system testing before and after implementation of a new State automated data processing (ADP) and information retrieval system, including the evaluation of data from pilot projects in limited areas for major

systems changes, before the Secretary approves the system to be implemented more broadly. The rule also provides that systems be operated in accordance with an adequate plan for continuous updating to reflect changed policy and circumstances, and for testing the effects of the system on access by eligible households and on payment accuracy. This final rule specifies the requirements for submission of a test plan, and changes the due date of an Advance Planning Document Update (APDU) from 90 days after to 60 days prior to the expiration of the Federal financial participation (FFP) approval, and revises language regarding the federal share of costs in consolidated information technology (IT) operations to specify that the threshold for service agreements applies to federally aided public assistance programs, rather than to SNAP alone. In addition, this rule amends SNAP regulations relating to the establishment of an ADP and information retrieval system and to provide clarifications and updates, which have occurred since this section was last updated in 1996.

**DATES:** This rule is effective March 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding this rulemaking should be addressed to Karen Painter-Jaquess, Director, State Systems Office, Food and Nutrition Service—USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500; by telephone at (303) 844–6533; or via the Internet at *mailto: karen.painter-jaquess@fns.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

## Background

On August 23, 2011, the Department published a proposed rule (76 FR 52581), which requires adequate system testing before and after implementation of a new State ADP and information retrieval system. The comment period ended on October 24, 2011, and FNS received 12 comments. Eight of those were from State/local agencies, two were from advocacy organizations, and two were from associations. Two of the commenters supported the rule changes and raised no issues or concerns, and the remaining commenters had the following issues/concerns:

1. *Comment:* Six comments were received that indicated concern that the rule as proposed would impose additional work for States, cause potential project delays, and incur additional costs that will be caused by requirements for FNS' prior approval of the testing plan, the decision to move from user acceptance testing (UAT) to pilot, and the decision to move from pilot to statewide implementation.

*Response:* Section 4121 of the Food, Conservation, and Energy Act of 2008 reflects Congress' concern that FNS use the Federal approval process to more deliberately review and monitor State agencies' plans for major system implementation, and encourage all State agencies to implement new systems using sound testing practices. FNS knows that many State agencies already include testing and pilot projects as well as some form of graduated roll out when implementing major systems and that system testing is part of the overall project management and risk management planning process. A thorough testing plan, an evaluation of the results of UAT before proceeding to pilot, and a pilot evaluation prior to wider implementation of the system are components of a well-managed system project. FNS does not see these requirements as additional work for the State agencies in projects where sound management practices are in place. FNS anticipates that there should be more than adequate time after the initial approval of a project for a State agency to submit its testing plan well in advance of the start of testing. The testing plan itself does not require approval. It must be submitted so that FNS can make a sound determination as to the validity of the test results and the State's decision to proceed to pilot, which does require FNS concurrence. By submitting the plan well in advance of testing, the State enables FNS to be an informed and timely reviewer of test results. FNS understands that the typical project timeline for testing, pilot and rollout includes specific go/no-go decision points. By communicating with FNS throughout the testing and pilot phases regarding results and the status of the State's go/no-go criteria, State agencies can help ensure that there is no need for additional delay at the key decision points. FNS does not anticipate the need for a separate test or pilot evaluation period, in addition to the State agency's own, if it is kept fully informed throughout the process. This regulation will codify the testing standards already found in well managed State projects in order to assure that all State agencies meet those standards.

2. *Comment:* Three commenters stated concerns that the three-month recommended minimum pilot period as stated in § 277.18(g)(2)(ii) could potentially extend project schedules and drive up project costs.

*Response:* The pilot is a key milestone in project development and occurs when a fully functional prototype system is available for testing, but before statewide implementation. Pilots are when the State has the best opportunity to identify defects in either the system or the implementation approach before they become costly large-scale problems. State agencies must operate pilot projects until a state of routine operation is reached with the full caseload in the pilot area. FNS has always recommended that there be sufficient time in the pilot to thoroughly test all system functionality, including time for evaluation prior to beginning the wider implementation of the system. FNS believes that a minimum duration of three months to pilot would permit the system to work through all functions and potential system problems. However, if the pilot is going well early on, then the process of evaluation and FNS approval can start during the pilot period and lessen or eliminate any delay. Further, the length of the pilot can be agreed upon by the State agency and FNS to include such factors as the size of the pilot; the rate of phase-in of the pilot caseload; and the track record, if any, of the system being implemented.

3. *Comment:* One comment was received that questioned the requirement to pilot the new system in a limited area of the State, which would require having two systems operating and synchronized. The commenter suggested allowing parallel testing rather than the piloting of the fully operational system.

*Response:* FNS believes that evaluation of data from pilot projects in limited areas provides the greatest opportunity to manage risk because it tests the fully operational system in a live production environment. Before FNS could approve any alternate testing strategies, the State agency would have to demonstrate that the risks associated with the proposed alternate strategies, such as parallel testing, would accurately test the new system. The comparison of strategies would need to be identified in the testing plan, demonstrating how sufficient go/no-go decision criteria would be met by the proposed pilot and conversion methodology.

4. *Comment:* There were three commenters who questioned how the proposed rule would affect enhancements to systems that are currently operational. One commenter stated the rule should only be applicable to full-scale development and not to maintenance and operation (M&O) efforts, but recommended that if applicable to M&O it should only apply to large scale additions of system components (e.g., online application

system) and not to programmatic changes.

*Response:* FNS believes system testing is part of the overall project management and risk management planning process and that it is essential for successful system implementation outcomes including enhancement work. For projects that cross the threshold requiring FNS prior approval (if the total project cost is $6 million or more), testing plan requirements will be based on the scope, level and risk involved in that particular project. A shorter pilot period or no pilot at all may be justified for enhancements to current systems that have been otherwise adequately tested.

5. *Comment:* One commenter pointed out inconsistencies in references in the preamble to new systems design and implementation as opposed to reprogramming or adding new programming to an existing system. The rule references new, then occasionally references reprogramming of an existing system or adding new programming to an existing system.

*Response:* FNS' intent is for the rule to apply to both new system design and implementation, and enhancements or reprogramming of an existing system, or adding new programming to an existing system.

6. *Comment:* One commenter stated the proposed rule did not adequately define enhancements or changes, other than establishing a $6 million threshold for total project costs, and that failure to adequately define enhancements could put the State at risk for failing to follow the rules when making maintenance changes in support of system processes.

*Response:* FNS did provide in the proposed rule a definition for enhancements under § 277.18(b), which states that enhancement means modifications which change the functions of software and hardware beyond their original purposes, not just to correct errors or deficiencies which may have been present in the software or hardware, or to improve the operational performance of the software or hardware. Software enhancements that substantially increase risk or cost or functionality, and which cross the $6 million threshold, will require submission of an Implementation Advance Planning Document (IAPD) or an As Needed IAPD Update (IAPDU).

7. *Comment:* One commenter pointed out inconsistencies found in the rule relating to the thresholds for prior approval of projects and acquisitions. The phrases ''more than $6 million'' and ''$6 million and more'' were used interchangeably for the same threshold. The same applied to the ''more than $1 million'' non-competitive acquisition threshold.

*Response:* FNS agrees there were inconsistencies in the proposed rule in stating the prior approval thresholds for competitive and non-competitive acquisitions and has corrected the regulation threshold language to read ''$6 million or more'' and ''less than $6 million'' to be consistent.

8. *Comment:* Two commenters recommended that States be permitted to implement the testing provisions of the rule prospectively and not retroactively. This is based on the concern that imposing this rule retroactively on existing projects and contracts would require rewriting schedules to allow sufficient time for FNS involvement and/or approval of a test plan prior to system implementation.

*Response:* FNS believes Section 4121 of the Food, Conservation, and Energy Act of 2008 intended adequate system testing be applied to all projects in active development of a new State information system and that the testing requirements in this final rule become effective for active projects 60 days after publication in the **Federal Register**. Further, FNS believes that current projects should already have sufficient time built into the timeline to test and pilot the new system.

9. *Comment:* Two commenters indicated the rule lacked detail regarding documentation that must be submitted to obtain written approval from FNS to expand beyond the pilot and stated concern that approval requirements could expand at the discretion of FNS.

*Response:* In order for FNS to be more responsive to States that are implementing information systems, as circumstances warrant, specific content and detailed guidance for what type of documentation to submit can be found in FNS Handbook 901, ''Advanced Planning Documents''.

10. *Comment:* Three commenters questioned FNS' response time for review of project documents.

*Response:* As stated in § 277.18(c)(5), FNS will reply promptly to State agency requests for prior approval. However, FNS has up to 60 days to provide a written approval, disapproval or a request for additional information.

11. *Comment:* Under § 277.18(c)(5), it states that FNS will reply promptly to State agency requests for prior approval. One commenter questioned what does ''promptly reply'' mean.

*Response:* Promptly reply would mean as soon as possible but no longer than 60 days as specified in regulation.

12. *Comment:* Two commenters pointed out that the rule as proposed does not address specific timeframes for FNS to complete reviews for pre-implementation and post-implementation of the system. Also, one commenter was concerned that project schedules will have to accommodate FNS review time and could result in months of project delays and added costs for FNS and States.

*Response:* As noted in the regulation at § 277.18(g)(2) and (g)(2)(iii), these pre- and post- implementation reviews are optional, and the need for such reviews will be determined on a case-by-case basis based on the risk of the project. FNS will work with States to the extent possible to ensure project schedules are not adversely impacted. It is not FNS' intent to unnecessarily delay project implementation nor to add additional costs.

13. *Comment:* One commenter expressed concern that FNS would have approval over a State's test, pilot, and implementation schedule and asked what would happen if FNS is unavailable to participate in go/no-go decisions. The commenter recommended adding hold harmless language, protecting a State's funding or at the very least providing increased funding if implementation delays are caused by FNS' unavailability.

*Response:* Again, FNS' intent is not to in any way unnecessarily delay a State's project timelines. FNS is committed to being available and will work with State agencies to provide the most expedited review as possible. A State agency can limit the potential impact of FNS review by ensuring that FNS is provided with the test plan, test results and pilot evaluation results in a timely manner throughout each phase.

14. *Comment:* FNS regulations at § 277.18(d)(1) currently state that the Planning Advance Planning Document (PAPD) shall contain adequate documentation to demonstrate the need to undertake a planning process. One commenter requested the rule define ''adequate documentation''.

*Response:* In order for FNS to be more responsive to States that are implementing information systems and to revise requirements in the future by policy rather than regulation if circumstances warrant, specific content and detailed guidance for a PAPD can be found in FNS Handbook 901, ''Advanced Planning Documents.'' This is also the same for an Implementation APD (IAPD), Annual APDU and As Needed APDU.

15. *Comment:* One commenter wanted to know which request for proposals (RFP) and contracts are ''specifically

exempted'' from prior approval under § 277.18(c)(2)(ii)(A) and (c)(2)(ii)(B).

*Response:* As specified in regulation, any RFP and contract with a projected cost that is less than $6 million are exempted and noncompetitive acquisitions less than $1 million are exempted.

16. *Comment:* One commenter requested clarification under § 277.18(f)(2) of the meaning of ''other State agency systems.'' Currently it states that in no circumstances will funding be available for systems which duplicate other State agency systems, whether presently operational or planned for future development.

*Response:* To clarify, FNS will not fund systems that duplicate other State agency systems that already have similar functionality to support FNS programs. FNS will fund the ongoing operation (legacy) system during the development and implementation of its replacement.

17. *Comment:* One comment was received regarding § 277.18(h), which questioned if Federal financial participation (FFP) is disallowed, how long the suspension of FFP would last and how the suspension can be cured.

*Response:* This would be determined by FNS on a case-by-case basis.

18. *Comment:* One commenter requested additional clarification to identify which federal public assistance programs should be included when determining the 50 percent threshold for service agreements in § 277.18(e)(6).

*Response:* Typically FNS would designate programs such as, but not limited to, Temporary Assistance for Needy Families, Refugee Assistance, Child Support Enforcement, Child Welfare, and Medicaid.

19. *Comment:* One commenter questioned how long service agreements must be kept as specified under § 277.18(e)(9).

*Response:* Supplemental Nutrition Assistance Program regulations at § 272.1(f) require fiscal records and accountable documents be retained for a period of 3 years from the date of fiscal or administrative closure. Therefore, service agreements would be required to be kept for a period of 3 years beyond the expiration date.

20. *Comment:* One commenter questioned whether the periodic risk analysis that the State agency must complete would be subject to review by FNS.

*Response:* Yes, any documents produced as part of the information system security requirements and review process should be maintained by the State agency and be available for Federal review upon request.

21. *Comment:* One commenter stated concern under § 277.18(k) with FNS having access to code in development which raises security concerns and wants FNS to acknowledge that their staff will be subject to State procedures and policies to protect software and data integrity.

*Response:* FNS is fully aware that State security procedures and policies would need to be followed and would ensure integrity of the system.

**Procedural Matters**

*Executive Order 12866 and Executive Order 13563*

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

This final rule has been designated non-significant under section 3(f) of Executive Order 12866.

*Regulatory Flexibility Act*

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). It has been certified that this rule would not have significant economic impact on a substantial number of small entities. State agencies which administer Supplemental Nutrition Assistance Program (SNAP) will be affected to the extent that they implement new State automated systems or major changes to existing systems.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. Under Section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of $100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

*Executive Order 12372*

SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.561. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V, and related Notice published at [48 FR 29114 for SNP (Special Nutrition Programs); 48 FR 29115 for FSP (Food Stamp Program)], June 24, 1983, this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

*Executive Order 13132*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132 (Prior Consultation With State Officials, Nature of Concerns and the Need To Issue This Rule, and Extent to Which We Meet Those Concerns). FNS has considered the impact of this rule on State and local governments and determined that this rule does not have Federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

*Executive Order 12988*

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

*Executive Order 13175*

E.O. 13175 requires Federal agencies to consult and coordinate with Indian tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the affect of this and other rules on tribes or Indian Tribal governments, or whether this rule may preempt Tribal law. In regard to this rule, no adverse comments were offered at those sessions. Further, the policies contained in this rule would not have Tribal implications that preempt Tribal law. Reports from the consultative sessions will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. FNS is unaware of any current Tribal laws that could be in conflict with the rule.

*Civil Rights Impact Analysis*

FNS has reviewed this final rule in accordance with the Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, and the characteristics of SNAP households and individual participants, FNS has determined that there are no civil rights impacts in this rule. All data available to FNS indicate that protected individuals have the same opportunity to participate in SNAP as non-protected individuals.

FNS specifically prohibits the State and local government agencies that administer the Program from engaging in actions that discriminate based on age, race, color, sex, handicap, religious creed, national origin, or political beliefs. SNAP nondiscrimination policy can be found at § 272.6(a). Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with the regulations at § 272.6. Discrimination in any aspect of program administration is prohibited by these regulations, the Food and Nutrition Act of 2008 (Pub. L. 110–246), as amended (the Act), the Age Discrimination Act of 1975 (Pub. L. 94–135), the Rehabilitation Act of 1973 (Pub. L. 93–112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accordance with 7 CFR part 15.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; see 5 CFR part 1320) requires OMB approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This final rule contains information collections that are subject to review and approval by OMB. Therefore, FNS has submitted an information collection under 0584–0083, which contains the changes in burden from adoption of the proposed rule, for OMB's review and approval. When the information collection requirements have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval.

*Title:* Program and Budget Summary Statement (Forms FNS–366A & FNS–366B).

*OMB Number:* 0584–0083.

*Expiration Date:* 12/31/2013.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* This final rule will have no impact on the State agency workload with regard to the additional testing requirements, as rigorous testing is already part of any well-managed systems project. Most State agencies will recognize the similarities between the documents already prepared during customary System Development Life Cycle (SDLC) processes, and those required by the Supplemental Nutrition Assistance Program (SNAP) Advance Planning Document (APD) approval processes. Although FNS is requiring information from State agencies on their plans for adequate system testing, FNS believes this information is already part of the regular SDLC process; it should already be in the State agencies' possession and only needs to be submitted to FNS for review and approval.

Further, information collections associated with maintenance and operation (M&O) procurements, prescribed under § 277.18, would be reduced as systems move past their implementation phase. Currently, State agencies are required to submit to FNS Implementation APDs (IAPD) for M&O of their ADP systems. This rule finalized that State agencies would no longer be required to submit this IAPD information unless they contain significant changes such as system development through modifications and/or enhancements. State agencies will continue to be asked to provide copies to FNS of the requests for proposals and contracts relating to system M&O.

Currently it is estimated that up to 53 State agencies may submit an average of five (5) APD, Plan, or Update submissions for a total of 265 annual responses. At an average estimate of 2.5 hours per response, the reporting burden is 662.5 hours. The recordkeeping burden, to maintain records of the approximately 265 annual responses, is estimated to average .11 minutes per record, for a total of 29.15 recordkeeping burden hours. Since this rule will lessen the burden for submittal and recordkeeping of M&O IAPDs, it is now estimated that the burden will lessen to four (4) APD, Plan or Update submittals annually. This results in a reduction of 138.3 burden hours for reporting and recordkeeping.

OMB number 0584–0083 includes burden hours for four information collection activities: form FNS–366A; form FNS–366B; the plan of operation updates submitted as attachments to the FNS–366B or waivers; and APD, Plan or Update submissions. As described above, the estimated burden for APD, Plan, or Update submissions will be reduced by this rulemaking. The other information collection burden estimates for 0584–0083 remain unchanged. The estimated total annual burden for this collection is 2,728 (2,696 reporting hours and 32 recordkeeping hours). A summary of information collection burden appears in the table below:

BURDEN SUMMARY TABLE FOR 0584–0083

| Affected public | Information collection activities | Number of respondents | Frequency of response | Total annual responses | Time per response (hours) | Annual reporting burden hours |
|---|---|---|---|---|---|---|
| **Reporting** | | | | | | |
| State Agencies | FNS–366A | 53 | 1 | 53 | 13.00 | 689.00 |
| | FNS–366B | 53 | 1 | 53 | 17.93 | 950.29 |
| | Plan of Operation Updates (366B). | 53 | 1 | 53 | 6.58 | 348.99 |
| | Plan of Operation Updates (Waivers). | 45 | 3.94 | 177.3 | 1.00 | 177.30 |
| | Other APD Plan or Update. | 53 | 4 | 212 | 2.5 | 530 |
| Reporting Burden | | 53 | | 548.3 | | 2,695.58 |
| **Recordkeeping** | | | | | | |
| | FNS–366A | 53.00 | 1.00 | 53.00 | 0.05 | 2.65 |
| | FNS–366B | 53.00 | 1.00 | 53.00 | 0.05 | 2.65 |
| | Plan of Operations | 53.00 | 1.00 | 53.00 | 0.07 | 3.71 |
| | Other APD Plan or Update. | 53.00 | 4.00 | 212 | 0.11 | 23.32 |
| Recordkeeping Burden | | 53.00 | | 371 | | 32.33 |
| Grand Total | | 53 | 17.35 | 919.30 | 2.97 | 2,727.91 |

*E-Government Act Compliance*

The Food and Nutrition Service is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

**List of Subjects**

*7 CFR Part 271*

Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

*7 CFR Part 272*

Alaska, Civil rights, Claims, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements, Unemployment compensation, Wages.

*7 CFR Part 274*

Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

*7 CFR Part 276*

Administrative practice and procedure, Food stamps, Fraud, Grant programs-social programs.

*7 CFR Part 277*

Food stamps, Fraud, Grant programs-social programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Parts 271, 272, 274, 276 and 277 are amended as follows:

## PART 271—GENERAL INFORMATION AND DEFINITIONS

■ 1. The authority citation for part 271 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036a.

■ 2. Section 271.8 is amended by revising the entry for § 277.18 to read as follows:

**§ 271.8 Information collection/recordkeeping—OMB assigned control numbers.**

| 7 CFR section where requirements are described | Current OMB control No. |
|---|---|
| * * * * * | |
| 277.18 (a), (c), (d), (f), (i) | 0584–0083 |
| * * * * * | |

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 3. The authority citation for part 272 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036a.

■ 4. Section 272.1 is amended by revising the second sentence of paragraph (g)(159) to read as follows:

**§ 272.1 General terms and conditions.**

* * * * *

(g) * * *

(159) * * * The conforming amendment to Food Stamp Program regulations in §§ 272.1(g), 272.2(c)(3), 272.11(d) and (e), 274.12(k), 277.4(b) and (g), 277.9(b), 277.18(b), (d), and (f), and OMB Circular A–87 (2 CFR Part 225) are effective June 23, 2000.

* * * * *

■ 5. Section 272.2 is amended by revising paragraph (f)(1)(i)(D) to read as follows:

**§ 272.2 Plan of operation.**

* * * * *

(f) * * *

(1) * * *

(i) * * *

(D) The revisions pertain to the addition of items requiring prior approval by FNS in accordance with the provisions of the applicable cost principles specified in OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*).

* * * * *

## PART 274—ISSUANCE AND USE OF PROGRAM BENEFITS

■ 6. The authority citation for part 274 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036a.

■ 7. Section 274.1 is amended by revising paragraph (e)(2), the last sentence of paragraph (f)(2)(vi), and paragraph (k)(2) to read as follows:

**§ 274.1 Issuance system approval standards.**

* * * * *

(e) * * *

(2) The State agency shall comply with the procurement standards prescribed under § 277.18(c)(2)(iii) of this chapter. Under service agreements,

the procurement of equipment and services which will be utilized in the SNAP EBT system shall be conducted in accordance with the provisions set forth under § 277.18(e) of this chapter.

(f) * * *

(2) * * *

(vi) * * * The contingency plan shall be incorporated into the State system security plan after FNS approval as prescribed at § 277.18(m) of this chapter.

* * * * *

(k) * * *

(2) The State agency shall comply with the provisions set forth under § 277.18 of this chapter and OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*) in determining and claiming allowable costs for the EBT system.

* * * * *

■ 8. Section 274.8 is amended by revising the introductory text of paragraph (b)(3) and the first sentence of paragraph (b)(3)(v) to read as follows:

**§ 274.8 Function and technical EBT system requirements.**

* * * * *

(b) * * *

(3) *System security.* As an addition to or component of the Security Program required of Automated Data Processing systems prescribed under § 277.18(m) of this chapter, the State agency shall ensure that the following EBT security requirements are established:

* * * * *

(v) A separate EBT security component shall be incorporated into the State agency Security Program for Automated Data Processing (ADP) systems where appropriate as prescribed under § 277.18(m) of this chapter. * * *

* * * * *

## PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

■ 9. The authority citation for part 276 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036a.

■ 10. Section 276.4 is amended by revising the first sentence in paragraph (d) to read as follows:

**§ 276.4 Suspension/disallowance of administrative funds.**

* * * * *

(d) *Warning process.* Prior to taking action to suspend or disallow Federal funds, except those funds which are disallowed when a State agency fails to adhere to the cost principles of part 277 and OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*), FNS shall provide State agencies with written advance notification that such action is being considered. * * *

* * * * *

## PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

■ 11. The authority citation for part 277 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036a.

■ 12. Section 277.6(b)(6) is revised to read as follows:

**§ 277.6 Standards for financial management systems.**

* * * * *

(b) * * *

(6) Procedures to determine the reasonableness, allowability, and allocability of costs in accordance with the applicable provisions prescribed in OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*).

* * * * *

■ 13. Section 277.9(c)(2) is revised to read as follows:

**§ 277.9 Administrative cost principles.**

* * * * *

(c) * * *

(2) *Indirect cost.* Allowable indirect costs may also be claimed at the 50 percent or higher reimbursement funding level as specified in this part and OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*).

* * * * *

■ 14. In § 277.13:

■ a. Revise the introductory text of paragraph (b)(2)(iii);

■ b. Revise paragraph (b)(2)(iii)(A);

■ c. Revise paragraph (b)(3);

■ d. Revise paragraph (c)(1);

■ e. Revise paragraph (e)(3); and

■ f. Revise the last sentence of paragraph (g).

The revisions read as follows:

**§ 277.13 Property.**

* * * * *

(b) * * *

(2) * * *

(iii) When the State agency no longer has need for such property in any of its federally financed activities, the property may be used for the State agency's own official activities in accordance with the following standards:

(A) If the property had a total acquisition cost of less than $5,000, the State agency may use the property without reimbursement to FNS.

* * * * *

(3) *Disposition.* If the State agency has no need for the property, disposition of the property shall be made as follows:

(i) If the property had a total acquisition cost of less than $5,000 per unit, the State agency may sell the property and retain the proceeds.

(ii) If the property had an acquisition cost of $5,000 or more per unit, the State agency shall:

(A) If instructed to ship the property elsewhere, the State agency shall be reimbursed with an amount which is computed by applying the percentage of the State agency's participation in the cost of the property to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(B) If instructed to otherwise dispose of the property, the State agency shall be reimbursed by FNS for the cost incurred in such disposition.

(C) If disposition or other instructions are not issued by FNS within 120 days of a request from the State agency, the State agency shall sell the property and reimburse FNS an amount which is computed by applying the percentage of FNS participation in the cost of the property to the sales proceeds. The State agency may, however, deduct and retain from FNS' share $500 or 10 percent of the proceeds, whichever is greater, for the State agency's selling and handling expenses.

(c) *Transfer of title to certain property.* (1) Where FNS determines that an item of nonexpendable personal property with an acquisition cost of $5,000 or more which is to be wholly borne by FNS is unique, difficult, or costly to replace, FNS may reserve the right to require the State agency to transfer title of the property to the Federal Government or to a third party named by FNS.

* * * * *

(e) * * *

(3) *Disposition.* When there is no longer a need for the property in the program and there is a residual inventory exceeding $5,000 the State agency shall:

(i) Use the property in other federally sponsored projects or programs;

(ii) Retain the property for use on non-federally sponsored activities; or

(iii) Sell it.

* * * * *

(g) * * * This includes copyrights on ADP software as specified in OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*).

■ 15. Revise § 277.16(b)(2) to read as follows:

**§ 277.16 Suspension, disallowance and program closeout.**

* * * * *

(b) * * *

(1) * * *

(2) FNS may also disallow costs and institute recovery of Federal funds when a State agency fails to adhere to the cost principles of this part and OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*).

* * * * *

■ 16. Revise § 277.18 to read as follows:

**§ 277.18 State Systems Advance Planning Document (APD) process.**

(a) *Scope and application.* This section establishes conditions for initial and continuing authority to claim Federal financial participation (FFP) for the costs of the planning, development, acquisition, installation and implementation of Information System (IS) equipment and services used in the administration of the Supplemental Nutrition Assistance Program (SNAP) and as prescribed by appropriate Food and Nutrition Service (FNS) directives and guidance (i.e., FNS Handbook 901, OMB Circulars, etc.).

(b) *Definitions.* As used in this section:

*Acquisition* means obtaining supplies or services through a purchase or lease, regardless of whether the supplies or services are already in existence or must be developed, created or evaluated.

*Advance Planning Document for project planning or Planning APD* (APD or PAPD) means a brief written plan of action that requests FFP to accomplish the planning activities necessary for a State agency to determine the need for, feasibility of, projected costs and benefits of an IS equipment or services acquisition, plan the acquisition of IS equipment and/or services, and to acquire information necessary to prepare an Implementation APD.

*Advance Planning Document Update* (APDU) means a document submitted annually (Annual APDU) by the State agency to report the status of project activities and expenditures in relation to the approved Planning APD or Implementation APD; or on an as needed basis (As Needed APDU) to request funding approval for project continuation when significant project changes occur or are anticipated.

*Commercial Off-the-Shelf* (COTS) means proprietary software products that are ready-made and available for sale to the general public at established catalog or market prices in which the software vendor is not positioned as the sole implementer or integrator of the product.

*Enhancement* means modifications which change the functions of software and hardware beyond their original purposes, not just to correct errors or deficiencies which may have been present in the software or hardware, or to improve the operational performance of the software or hardware. Software enhancements that substantially increase risk or cost or functionality will require submission of an IAPD or an As Needed IAPDU.

*Implementation Advance Planning Document or Implementation APD* (IAPD) means a written plan of action requesting FFP to acquire and implement information system (IS) services and/or equipment. The Implementation APD includes the design, development, testing and implementation phases of the project.

*Information System* (IS) means a combination of hardware and software, data and telecommunications that performs specific functions to support the State agency, or other Federal, State or local organization.

*Project* means a related set of information technology related tasks, undertaken by a State, to improve the efficiency, economy and effectiveness of administration and/or operation of its human services programs. A project may also be a less comprehensive activity such as office automation, enhancements to an existing system, or an upgrade of computer hardware.

*Request for Proposal (RFP)* means the document used for public solicitations of competitive proposals from qualified sources as outlined in § 277.14(g)(3).

(c) *Requirements for FNS prior approval of IS projects*—(1) *General prior approval requirements.* The State agency shall request prior FNS approval by submitting the Planning APD, the Implementation APD, an APD Update, the draft acquisition instrument, and/or the justification for the sole source acquisition if applicable, as specified in paragraph (c)(2) of this section. A State agency must obtain written approval from FNS to receive FFP of any of the following activities:

(i) When it plans a project to enhance or replace its IS that it anticipates will have total project costs in Federal and State funds of $6 million or more.

(ii) Any IS competitive acquisition that costs $6 million or more in Federal and State funds.

(iii) When the State agency plans to acquire IS equipment or services non-competitively from a nongovernmental source, and the total State and Federal cost is more than $1 million.

(iv) For the acquisition of IS equipment or services to be utilized in an Electronic Benefit Transfer (EBT) system regardless of the cost of the acquisition in accordance with § 274.12 (EBT issuance system approval standards).

(2) *Specific prior approval requirements.* (i) For IS projects which require prior approval, as specified in paragraph (c)(1) of this section, the State agency shall obtain the prior written approval of FNS for:

(A) Conducting planning activities, entering into contractual agreements or making any other commitment for acquiring the necessary planning services;

(B) Conducting design, development, testing or implementation activities, entering into contractual agreements or making any other commitment for the acquisition of IS equipment or services.

(ii) For IS equipment and services acquisitions requiring prior approval as specified in paragraph (c)(1) of this section, prior approval of the following documents associated with such acquisitions is also required:

(A) *Requests for Proposals (RFPs).* Unless specifically exempted by FNS, the State agency shall obtain prior written approval of the RFP before the RFP may be released. However, RFPs for acquisitions estimated to cost less than $6 million or competitive procurements from non-governmental sources and that are an integral part of the approved APD, need not receive prior approval from FNS. The State agency shall submit a written request to get prior written approval to acquire IS equipment or services non-competitively from a nongovernmental source when the total State and Federal cost is $1 million or more. State agencies shall submit RFPs under this threshold amount on an exception basis. The State agency shall obtain prior written approval from FNS for RFPs which are associated with an EBT system regardless of the cost.

(B) *Contracts.* All contracts must be submitted to FNS. Unless specifically exempted by FNS, the State agency shall obtain prior written approval before the contract may be signed by the State agency. However, contracts for competitive procurements costing less than $6 million and for noncompetitive acquisitions from nongovernmental sources costing less than $1 million and that are an integral part of the approved APD need not be submitted to FNS. State agencies shall submit contracts under this threshold amount on an exception basis. The State agency shall obtain prior written approval from FNS

for contracts which are associated with an EBT system regardless of the cost.

(C) *Contract amendments.* All contract amendments must be submitted to FNS. Unless specifically exempted by FNS, the State agency shall obtain prior written approval from FNS of any contract amendments which cumulatively exceed 20 percent of the base contract costs before being signed by the State agency. The State agency shall obtain prior written approval from FNS for contracts which are associated with an EBT system regardless of the cost.

(iii) *Procurement requirements.*—(A) Procurements of IS equipment and services are subject to § 277.14 (procurement standards) regardless of any conditions for prior approval contained in this section, except the requirements of § 277.14(b)(1) and (b)(2) regarding review of proposed contracts. Those procurement standards include a requirement for maximum practical open and free competition regardless of whether the procurement is formally advertised or negotiated.

(B) The standards prescribed by § 277.14, as well as the requirement for prior approval in this paragraph (c), apply to IS services and equipment acquired primarily to support SNAP regardless of the acquiring entity.

(C) The competitive procurement policy prescribed by § 277.14 shall be applicable except for IS services provided by the agency itself, or by other State or local agencies.

(iv) The State agency must obtain prior written approval from FNS, as specified in paragraphs (c)(2)(i) and (c)(2)(ii) of this section, to claim and receive reimbursement for the associated costs of the IS acquisition.

(3) *Document submission requirements.*—(i) For IS projects requiring prior approval as specified in paragraphs (c)(1) and (c)(2) of this section, the State agency shall submit the following documents to FNS for approval:

(A) Planning APD as described in paragraph (d)(1) of this section.

(B) Implementation APD as described in paragraph (d)(2) of this section.

(C) Annual APDU as described in paragraph (d)(3) of this section. The Annual APDU shall be submitted to FNS 60 days prior to the expiration of the FFP approval, unless the submission date is specifically altered by FNS. In years where an As Needed APDU is required, as described in paragraph (c)(3)(i)(D) of this section, FNS may waive or modify the requirement to submit the annual APDU.

(D) As Needed APDU as described in paragraph (d)(4) of this section. As Needed APDU are required to obtain a commitment of FFP whenever significant project changes occur. Significant project changes are defined as changes in cost, schedule, scope or strategy which exceed FNS-defined thresholds or triggers. Without such approval, the State agency is at risk for funding of project activities which are not in compliance with the terms and conditions of the approved APD and subsequently approved APDU until such time as approval is specifically granted by FNS.

(E) Acquisition documents as described in § 277.14(g).

(F) Emergency Acquisition Requests as described in paragraph (i) of this section.

(ii) The State agency must obtain prior FNS approval of the documents specified in paragraph (c)(3)(i) of this section in order to claim and receive reimbursement for the associated costs of the IS acquisition.

(4) *Approval by the State agency.* Approval by the State agency is required for all documents and acquisitions specified in § 277.18 prior to submission for FNS approval. However, the State agency may delegate approval authority to any subordinate entity for those acquisitions of IS equipment and services not requiring prior approval by FNS.

(5) *Prompt action on requests for prior approval.* FNS will reply promptly to State agency requests for prior approval. If FNS has not provided written approval, disapproval or a request for additional information within 60 days of FNS' acknowledgment of receipt of the State agency's request, the request will be deemed to have provisionally met the prior approval requirement in this paragraph (c). However, provisional approval will not exempt a State agency from having to meet all other Federal requirements which pertain to the acquisition of IS equipment and services. Such requirements remain subject to Federal audit and review.

(d) *APD content requirements*—(1) *Planning APD (PAPD).* The PAPD is a written plan of action to acquire proposed services or equipment and to perform necessary activities to investigate the feasibility, system alternatives, requirements and resources needed to replace, modify or upgrade the State agency's IS. The PAPD shall contain adequate documentation to demonstrate the need to undertake a planning process, as well as a thorough description of the proposed planning activities, and estimated costs and timeline, as specified by FNS in Handbook 901.

(2) *Implementation APD (IAPD).* The IAPD is a written plan of action to acquire the proposed IS services or equipment and to perform necessary activities to design, develop, acquire, install, test, and implement the new IS. The IAPD shall contain detailed documentation of planning and preparedness for the proposed project, as enumerated by FNS in Handbook 901, demonstrating the feasibility of the project, thorough analysis of system requirements and design, a rigorous management approach, stewardship of federal funds, a realistic schedule and budget, and preliminary plans for key project phases.

(3) *Annual APDU content requirements.* The Annual APDU is a yearly update to ongoing IS projects when planning or implementation activities occur. The Annual APDU shall contain documentation on the project activity status and a description of major tasks, milestones, budget and any changes, as specified by FNS in Handbook 901.

(4) *As Needed APDU content requirements.* The As Needed APDU document shall contain the items as defined in paragraph (c)(3)(i)(D) of this section with emphasis on the area(s) where changes have occurred or are anticipated that triggered the submission of the APDU, as detailed by FNS in Handbook 901.

(e) *Service agreements.* The State agency shall execute service agreements when IS services are to be provided by a State central IT facility or another State or local agency. Service Agreement means the document signed by the State or local agency and the State or local central IT facility whenever an IT facility provides IT services to the State or local agency. Service agreements shall:

(1) Identify the IS services that will be provided;

(2) Include a schedule of rates for each identified IS service, and a certification that these rates apply equally to all users;

(3) Include a description of the method(s) of accounting for the services rendered under the agreement and computing services charges;

(4) Include assurances that services provided will be timely and satisfactory;

(5) Include assurances that information in the IS as well as access, use and disposal of IS data will be safeguarded in accordance with provisions of § 272.1(c) (disclosure) and § 277.13 (property);

(6) Require the provider to obtain prior approval from FNS pursuant to paragraph (c)(1) of this section for IS equipment and IS services that are

acquired from commercial sources primarily to support federally aided public assistance programs and require the provider to comply with § 277.14 (procurement standards) for procurements related to the service agreement. IS equipment and services are considered to be primarily acquired to support federally aided public assistance programs when the Programs may reasonably be expected to either be billed for more than 50 percent of the total charges made to all users of the IS equipment and services during the time period covered by the service agreement, or directly charged for the total cost of the purchase or lease of IS equipment or services;

(7) Include the beginning and ending dates of the period of time covered by the service agreement; and

(8) Include a schedule of expected total charges to the Program for the period of the service agreement.

(9) *State Agency Maintenance of Service Agreements.* The State agency shall maintain a copy of each service agreement in its files for Federal review upon request.

(f) *Conditions for receiving Federal financial participation* (FFP).—(1) A State agency may receive FFP at the 50 percent reimbursement rate for the costs of planning, design, development or installation of IS and information retrieval systems if the proposed system will:

(i) Assist the State agency in meeting the requirements of the Food and Nutrition Act of 2008, as amended;

(ii) Meet the Automation of Data Processing/Computerization of Information Systems Model Plan program standards specified in § 272.10(b)(1) through (b)(3) of this chapter, except the requirements in § 272.10(b)(2)(vi), (b)(2)(vii), and (b)(3)(ix) of this chapter to eventually transmit data directly to FNS;

(iii) Be likely to provide more efficient and effective administration of the program; and

(iv) Be compatible with such other systems utilized in the administration of other State agency programs including the program of Temporary Assistance for Needy Families (TANF).

(2) State agencies seeking FFP for the planning, design, development or installation of IS shall develop State wide systems which are integrated with TANF. In cases where a State agency can demonstrate that a local, dedicated, or single function (issuance or certification only) system will provide for more efficient and effective administration of the program, FNS may grant an exception to the State wide integrated requirement. These exceptions will be based on an assessment of the proposed system's ability to meet the State agency's need for automation. Systems funded as exceptions to this rule, however, should be capable to the extent necessary, of an automated data exchange with the State agency system used to administer TANF. In no circumstances will funding be available for systems which duplicate other State agency systems, whether presently operational or planned for future development.

(g) *Basis for continued Federal financial participation* (FFP).—(1) FNS will continue FFP at the levels approved in the Planning APD and the Implementation APD provided that project development proceeds in accordance with the conditions and terms of the approved APD and that IS resources are used for the purposes authorized. FNS will use the APDU to monitor IS project development. The submission of the Update as prescribed in § 277.18(d) for the duration of project development is a condition for continued FFP. In addition, periodic onsite reviews of IS project development and State and local agency IS operations may be conducted by or for FNS to assure compliance with approved APDs, proper use of IS resources, and the adequacy of State or local agency IS operations.

(2) *Pre-implementation.* The State agency must demonstrate through thorough testing that the system meets all program functional and performance requirements. FNS may require a pre-implementation review of the system to validate system functionality prior to State agency testing.

(i) *Testing.* The State agency must provide a complete test plan prior to the start of the testing phase. The State agency must provide documentation to FNS of the results of User Acceptance Testing (UAT) before the system is piloted in a production environment. FNS concurrence to advance from testing to pilot is a condition for continued FFP. All aspects of program eligibility must be tested to ensure that the system makes accurate eligibility determinations in accordance with federal statutes and regulations and approved State policies, and that system functionality meets the required functional specifications. The State agency shall describe how all system testing will be conducted and the resources to be utilized in order to verify the system complies with SNAP requirements, system design specifications, and performance standards including responsiveness, usability, capacity and security. Testing includes but is not limited to unit testing, integration testing, performance testing, end-to-end testing, UAT and regression testing. During UAT detailed scripts covering all areas of program functionality shall be used so that any errors identified can be replicated, corrected and re-tested. At a minimum, the Test Plan shall address:

(A) The types of testing to be performed;

(B) The organization of the test team and associated responsibilities;

(C) Test database generation;

(D) Test case development;

(E) Test schedule;

(F) Documentation of test results;

(G) Acceptance testing, to include functional requirements testing, error condition handling and destructive testing, security testing, recovery testing, controls testing, stress and throughput performance testing, and regression testing; and

(H) The decision criteria, including specific test results which must be met before the State may exit the testing phase, the roles or titles of the individuals responsible for verifying that these criteria have been met, and the sign-off process which will document that the criteria have been met.

(I) FNS may require any or all of these tests to be repeated in instances where significant modifications are made to the system after these tests are initially completed or if problems that surfaced during initial testing warrant a retest. FNS reserves the right to participate and conduct independent testing, as necessary, during UAT and at appropriate times during system design, development, implementation and operations.

(ii) *Pilot.* Prior to statewide rollout of the system there must be a test of the fully operational system in a live production environment. Pilots must operate until a state of routine operation is reached with the full caseload in the pilot area. The design of this pilot shall provide an opportunity to test all components of the system as well as the data conversion process and system performance. The duration of the pilot must be for a sufficient period of time to thoroughly evaluate the system (usually a minimum duration of three months). The State agency must provide documentation to FNS of the pilot evaluation. FNS approval to implement the system more broadly is a condition for continued FFP.

(iii) *Post-implementation Review.* After the system is fully implemented, FNS may conduct a review to validate that program policy is correctly applied, whether project goals and objectives were met, that IS equipment and

services are being properly used and accurate inventory records exist, and the actual costs of the project.

(h) *Disallowance of Federal financial participation* (FFP). If FNS finds that any acquisition approved under the provisions of paragraph (c) of this section fails to comply with the criteria, requirements and other undertakings described in the approved or modified APD, payment of FFP may be suspended or may be disallowed in whole or in part.

(i) *Emergency acquisition requirements.* The State agency may request FFP for the costs of IS equipment and services acquired to meet emergency situations in which the State agency can demonstrate to FNS an immediate need to acquire IS equipment or services in order to continue operation of SNAP; and the State agency can clearly document that the need could not have been anticipated or planned for and precludes the State from following the prior approval requirements of paragraph (c) of this section. FNS may provide FFP in emergency situations if the following conditions are met:

(1) The State agency must submit a written request to FNS prior to the acquisition of any IS equipment or services. The written request shall include:

(i) A brief description of the IS equipment and/or services to be acquired and an estimate of their costs;

(ii) A brief description of the circumstances which result in the State agency's need to proceed with the acquisition prior to fulfilling approval requirements at paragraph (c) of this section; and

(iii) A description of the adverse impact which would result if the State agency does not immediately acquire the IS equipment and/or services.

(2) Upon receipt of a written request for emergency acquisition FNS shall provide a written response to the State agency within 14 days. The FNS response shall:

(i) Inform the State agency that the request has been disapproved and the reason for disapproval; or,

(ii) FNS recognizes that an emergency situation exists and grants conditional approval pending receipt of the State agency's formal submission of the IAPD information specified at paragraph (d)(2) of this section within 90 days from the date of the State agency's initial written request.

(iii) If FNS approves the request submitted under paragraph (i)(1) of this section, FFP will be available from the date the State agency acquires the IS equipment and services.

(iv) If the complete IAPD submission required by paragraph (d)(2) of this section is not received by FNS within 90 days from the date of the initial written request, costs may be subject to disallowance.

(j) *General cost requirements.* — (1) *Cost determination.* Actual costs must be determined in compliance with OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*) and an FNS approved budget, and must be reconcilable with the approved FNS funding level. A State agency shall not claim reimbursement for costs charged to any other Federal program or uses of IS systems for purposes not connected with SNAP. The approved APD cost allocation plan includes the methods which will be used to identify and classify costs to be claimed. This methodology must be submitted to FNS as part of the request for FNS approval of funding as required in paragraph (d) of this section. Operational costs are to be allocated based on the statewide cost allocation plan rather than the APD cost plan. Approved cost allocation plans for ongoing operational costs shall not apply to IS system development costs under this section unless documentation required under paragraph (c) of this section is submitted to and approvals are obtained from FNS. Any APD-related costs approved by FNS shall be excluded in determining the State agency's administrative costs under any other section of this part.

(2) *Cost identification for purposes of FFP claims.* State agencies shall assign and claim the costs incurred under an approved APD in accordance with the following criteria:

(i) *Development costs.* Using its normal departmental accounting system, in accordance with the cost principles set forth in OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*), the State agency shall specifically identify what items of costs constitute development costs, assign these costs to specific project cost centers, and distribute these costs to funding sources based on the specific identification, assignment and distribution outlined in the approved APD. The methods for distributing costs set forth in the APD should provide for assigning identifiable costs, to the extent practicable, directly to program/functions. The State agency shall amend the cost allocation plan required by § 277.9 (administrative cost principles) to include the approved APD methodology for the identification, assignment and distribution of the development costs.

(ii) *Operational costs.* Costs incurred for the operation of an IS shall be identified and assigned by the State agency to funding sources in accordance with the approved cost allocation plan required by § 277.9 (administrative cost principles).

(iii) *Service agreement costs.* States that operate a central data processing facility shall use their approved central service cost allocation plan required by OMB Circular A–87 (available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/*) to identify and assign costs incurred under service agreements with the State agency. The State agency shall then distribute these costs to funding sources in accordance with paragraphs (j)(2)(i) and (ii) of this section.

(3) *Capital expenditures.* The State agency shall charge the costs of IT equipment having unit acquisition costs or total aggregate costs, at the time of acquisition, of more than $25,000 by means of depreciation or use allowance, unless a waiver is specifically granted by FNS. If the equipment acquisition is part of an APD that is subject to the prior approval requirements of paragraph (c)(2) of this section, the State agency may submit the waiver request as part of the APD.

(4) *Claiming costs.* Prior to claiming funding under this section the State agency shall have complied with the requirements for obtaining approval and prior approval of paragraph (c) of this section.

(5) *Budget authority.* FNS approval of requests for funding shall provide notification to the State agency of the budget authority and dollar limitations under which such funding may be claimed. FNS shall provide this amount as a total authorization for such funding which may not be exceeded unless amended by FNS. FNS's determination of the amount of this authorization shall be based on the budget submitted by the State agency. Activities not included in the approved budget, as well as continuation of approved activities beyond scheduled deadlines in the approved plan, shall require FNS approval of an As Needed APD Update as prescribed in paragraphs (c)(3)(i)(D) and (d)(4) of this section, including an amended State budget. Requests to amend the budget authorization approved by FNS shall be submitted to FNS prior to claiming such expenses.

(k) *Access to the system and records.* Access to the system in all aspects, including but not limited to design, development, and operation, including work performed by any source, and

including cost records of contractors and subcontractors, shall be made available by the State agency to FNS or its authorized representatives at intervals as are deemed necessary by FNS, in order to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system. Failure to provide full access to all parts of the system may result in suspension and/or termination of SNAP funds for the costs of the system and its operation.

(l) *Ownership rights*—(1) *Software.*—(i) The State or local government shall include a clause in all procurement instruments which provides that the State or local government shall have all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with FFP under this section.

(ii) FNS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications and documentation.

(iii) Proprietary operating/vendor software packages which meet the definition of COTS at paragraph (b) of this section shall not be subject to the ownership provisions in paragraphs (l)(1)(i) and (l)(1)(ii) of this section. FFP is not available for development costs for proprietary application software developed specifically for SNAP.

(2) *Information Systems equipment.* The policies and procedures governing title, use and disposition of property purchased with FFP, which appear at § 277.13 (Property) are applicable to IS equipment.

(m) *Information system security requirements and review process*—(1) *Information system security requirements.* State and local agencies are responsible for the security of all IS projects under development, and operational systems involved in the administration of SNAP. State and local agencies shall determine appropriate IS security requirements based on recognized industry standards or compliance with standards governing security of Federal information systems and information processing.

(2) *Information security program.* State agencies shall implement and maintain a comprehensive Security Program for IS and installations involved in the administration of the SNAP. Security Programs shall include the following components:

(i) Determination and implementation of appropriate security requirements as prescribed in paragraph (m)(1) of this section.

(ii) Establishment of a security plan and, as appropriate, policies and procedures to address the following areas of IS security:

(A) Physical security of IS resources;

(B) Equipment security to protect equipment from theft and unauthorized use;

(C) Software and data security;

(D) Telecommunications security;

(E) Personnel security;

(F) Contingency plans to meet critical processing needs in the event of short- or long-term interruption of service;

(G) Emergency preparedness; and

(H) Designation of an Agency IS Security Manager.

(iii) *Periodic risk analyses.* State agencies shall establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost-effective safeguards are incorporated into new and existing systems. In addition, risk analyses shall be performed whenever significant system changes occur.

(3) *IS security reviews.* State agencies shall review the security of IS involved in the administration of SNAP on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security, operating procedures and personnel practices. State agencies shall maintain reports of their biennial IS security reviews, together with pertinent supporting documentation, for Federal review upon request.

(4) *Applicability.* The security requirements of this section apply to all IS systems used by State and local governments to administer SNAP.

Dated: December 24, 2013.

**Yvette S. Jackson,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. 2013–31347 Filed 12–31–13; 8:45 am]

**BILLING CODE 3410–30–P**

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## DEPARTMENT OF ENERGY

### 10 CFR Parts 218, 431, 490, 601, 820, 824, 851, 1013, 1017, and 1050

**RIN 1990–AA43**

### Inflation Adjustment of Civil Monetary Penalties

**AGENCY:** Office of the General Counsel, U.S. Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy (''DOE'') today publishes this final rule to adjust DOE's civil monetary penalties (''CMPs'') for inflation as mandated by the Debt Collection Improvement Act of 1996. This rule adjusts CMPs within the jurisdiction of DOE to the maximum extent allowed by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

**DATES:** This rule is effective February 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Preeti Chaudhari, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8078.

**SUPPLEMENTARY INFORMATION:**

I. Background
II. Method of Calculation
III. Summary of Final Rule
IV. Final Rulemaking
V. Regulatory Review

### I. Background

In order to preserve the deterrent effect of civil penalties and foster compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) (''the Act''), requires Federal agencies to regularly adjust each CMP provided by law within the jurisdiction of the agency. Also, the Act in part requires each agency to make further adjustments at least once every four years.

The Act provides that any increase in a CMP due to the calculated inflation adjustments shall apply only to violations that occur after the date the increase takes effect and states that the initial inflation adjustment may not exceed 10 percent of the existing penalty.

### II. Method of Calculation

Under the Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum civil penalty amount per violation by the cost-of-living adjustment. The ''cost-of-living'' adjustment is defined as the amount by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the year in which the amount of such civil penalty was last set or adjusted pursuant to law. Any calculated increase under this adjustment is rounded to the nearest—

(1) Multiple of $10 in the case of penalties less than or equal to $100;

(2) Multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) Multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) Multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) Multiple of $25,000 in the case of penalties greater than $200,000.

28 U.S.C. 2461 note, sec. 5.

## III. Summary of Final Rule

The following list summarizes the existing DOE regulations containing civil monetary penalties, and the penalties before and after adjustment. In some cases, the penalties remained the same after adjustment as before adjustment.

| DOE regulation containing civil monetary penalty | Before adjustment | After adjustment |
|---|---|---|
| 10 CFR 207.7 | $4,000 | $4,000 |
| 10 CFR 218.42 | $8,000 | $9,000 |
| 10 CFR 429.120 (formerly 10 CFR 430.61) | $200 | $200 |
| 10 CFR 431.382 (formerly 10 CFR 431.122 and 10 CFR 431.191). | $110 | $200 |
| 10 CFR 490.604 | $8,000 | $9,000 |
| 10 CFR 501.181(c) | —$40,000 | —$40,000 |
| | —3.3/mcf | —3.3/mcf |
| | —20/bbl | —20/bbl |
| 10 CFR 601.400 and App A | —minimum $15,000 | —minimum $15,000 |
| | —maximum $150,000 | —maximum $160,000. |
| 10 CFR 820.81 [1] | $150,000 | $160,000 |
| 10 CFR 824.1 and App A | $110,000 | $120,000 |
| 10 CFR 824.4 and App A | $110,000 | $120,000 |
| 10 CFR 851.5 and App B [2] | $75,000 | $80,000 |
| 10 CFR 1013.3 | $8,000 | $9,000 |
| 10 CFR 1017.29 | $150,000 | $160,000 |
| 10 CFR 1050.303 | $8,000 | $9,000 |

[1] The civil penalties under this section and 10 CFR 851.5 encompass the civil penalty authorized by 50 U.S.C. 2731 (formerly 42 U.S.C. 7274d). Title 50 U.S.C. 2731 establishes a maximum civil penalty of $5,000 per day for failure of any DOE contractor to provide specified training to individuals it employs who are engaged in hazardous substance response or emergency response at DOE nuclear weapons facilities or for failure to certify to DOE that such employees are adequately trained pursuant to orders issued by DOE relating to employee safety training. In 2009, the maximum civil penalty amount was adjusted to $5,500 for each day of a violation. In corresponding guidance, DOE is today adjusting the civil penalty to a maximum of $6,000 for each day a violation occurs. The adjusted civil penalty is well under the maximum civil penalty provided under 10 CFR 820.81 and 10 CFR 851.5. This footnote shall not be construed as limiting DOE's discretion to impose civil penalties for violations of training requirements contained in DOE's Nuclear Safety Requirements or 10 CFR Part 851, including training requirements relating to hazardous substance response or emergency response at DOE's nuclear weapons facilities.

[2] See footnote 1.

## IV. Final Rulemaking

In accordance with 5 U.S.C. 553(b), the Administrative Procedure Act, DOE generally publishes a rule in a proposed form and solicits public comment on it before issuing the rule in final. However, 5 U.S.C. 553(b)(B) provides an exception to the public comment requirement if the agency finds good cause to omit advance notice and public participation. Good cause is shown when public comment is ''impracticable, unnecessary, or contrary to the public interest.''

DOE finds that providing an opportunity for public comment prior to publication of this rule is not necessary because DOE is carrying out a ministerial, non-discretionary duty specified in an Act of Congress. This rule incorporates requirements specifically set forth in 28 U.S.C. 2461 note requiring DOE to issue a regulation implementing inflation adjustments for all its civil penalty provisions. The formula for the amount of the penalty adjustment is prescribed by Congress. Prior notice and opportunity to comment are therefore unnecessary in this case because these changes are not subject to the exercise of discretion by DOE. These technical changes, required by law, do not substantively alter the existing regulatory framework nor in any way affect the terms under which DOE assesses civil penalties.

## V. Regulatory Review

### *A. Executive Order 12866*

Today's rule has been determined not to be a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

### *B. National Environmental Policy Act*

DOE has determined that this final rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A5 of Appendix A to Subpart D, 10 CFR part 1021, which applies to a rulemaking that amends an existing rule or regulation and that does not change the environmental effect of the rule or regulation being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. As discussed above, DOE has determined that prior notice and opportunity for public comment is unnecessary. In accordance with 5 U.S.C. 604(a), no regulatory flexibility analysis has been prepared for today's rule.

### *D. Paperwork Reduction Act*

This final rule imposes no new information collection requirements subject to the Paperwork Reduction Act.

### *E. Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Section 201 excepts agencies from assessing effects on State, local or tribal governments or the private sector of rules that incorporate requirements

specifically set forth in law. Because this rule incorporates requirements specifically set forth in 28 U.S.C. 2461 note, DOE is not required to assess its regulatory effects under Section 201. Unfunded Mandates Reform Act sections 202 and 205 do not apply to today's action because they apply only to rules for which a general notice of proposed rulemaking is published. Nevertheless, DOE has determined that today's regulatory action does not impose a Federal mandate on State, local, or tribal governments or on the public sector.

*F. Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

*G. Executive Order 13132*

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

*H. Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

*I. Treasury and General Government Appropriations Act, 2001*

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

*J. Executive Order 13211*

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

*K. Congressional Notification*

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

**List of Subjects**

*10 CFR Part 218*

Administrative practice and procedure, Penalties, Petroleum allocation.

*10 CFR Part 431*

Administrative practices and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

*10 CFR Part 490*

Administrative practice and procedure, Energy conservation, Penalties.

*10 CFR Part 601*

Government contracts, Grant programs, Loan programs, Penalties.

*10 CFR Part 820*

Administrative practice and procedure, Government contracts, Penalties, Radiation protection.

*10 CFR Part 824*

Government contracts, Nuclear materials, Penalties, Security measures.

*10 CFR Part 851*

Civil penalty, Hazardous substances, Occupational safety and health, Safety, Reporting and recordkeeping requirements.

*10 CFR Part 1013*

Administrative practice and procedure, Claims, Fraud, Penalties.

*10 CFR Part 1017*

Administrative practice and procedure, Government contracts, National Defense, Nuclear Energy, Penalties, Security measures.

*10 CFR Part 1050*

Decorations, medals, awards, Foreign relations, Government employees, Government property, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 13, 2013.

**Eric J. Fygi,**

*Deputy General Counsel.*

For the reasons set forth in the preamble, DOE amends chapters II, III, and X of title 10 of the Code of Federal Regulations as set forth below.

## PART 218—STANDBY MANDATORY INTERNATIONAL OIL ALLOCATION

■ 1. The authority citation for part 218 continues to read as follows:

**Authority:** 15 U.S.C. 751 *et seq.;* 15 U.S.C. 787 *et seq.;* 42 U.S.C. 6201 *et seq.;* 42 U.S.C. 7101 *et seq.;* E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; 28 U.S.C. 2461 note.

■ 2. Section 218.42 is amended by revising paragraph (b)(1) to read as follows:

### § 218.42 Sanctions.

* * * * *

(b) *Penalties.* (1) Any person who violates any provision of part 218 of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than $9,000 for each violation.

* * * * *

## PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 3. The authority citation for part 431 continues to read as follows:

**Authority:** 42 U.S.C. 6291–6317.

■ 4. Section 431.382 is amended by revising paragraph (b) to read as follows:

### § 431.382 Prohibited acts.

* * * * *

(b) In accordance with sections 333 and 345 of the Act, any person who knowingly violates any provision of paragraph (a) of this section may be subject to assessment of a civil penalty of no more than $200 for each violation.

* * * * *

## PART 490—ALTERNATIVE FUEL TRANSPORTATION PROGRAM

■ 5. The authority citation for part 490 continues to read as follows:

**Authority:** 42 U.S.C. 7191 *et seq.;* 42 U.S.C. 13201, 13211, 13220, 13251 *et seq.*

■ 6. Section 490.604 is amended by revising paragraph (a) to read as follows:

### § 490.604 Penalties and Fines.

(a) *Civil Penalties.* Whoever violates § 490.603 of this part shall be subject to a civil penalty of not more than $9,000 for each violation.

* * * * *

## PART 601—NEW RESTRICTIONS ON LOBBYING

■ 7. The authority citation for part 601 continues to read as follows:

**Authority:** 31 U.S.C. 1352; 42 U.S.C. 7254 and 7256; 31 U.S.C. 6301–6308; 28 U.S.C. 2461 note.

■ 8. Section 601.400 is amended by revising paragraphs (a), (b) and (e) to read as follows:

### § 601.400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than $15,000 and not more than $160,000 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than $15,000 and not more than $160,000 for each such failure.

* * * * *

(e) First offenders under paragraphs (a) or (b) of this section shall be subject to a civil penalty of $15,000, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between $15,000 and $160,000, as determined by the agency head or his or her designee.

* * * * *

■ 9. Appendix A to part 601 is amended by:

■ a. Revising the last sentence of the undesignated paragraph following paragraph (3) of the section entitled, ''Certification for Contracts, Grants, Loans, and Cooperative Agreements''; and

■ b. Revising the last sentence of the last undesignated paragraph, in the section entitled, ''Statement for Loan Guarantees and Loan Insurance''.

The revisions read as follows:

### Appendix A to Part 601—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

* * * * *

(3) * * *

* * * Any person who fails to file the required certification shall be subject to a civil penalty of not less than $15,000 and not more than $160,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

* * * * *

* * * Any person who fails to file the required statement shall be subject to a civil penalty of not less than $15,000 and not more than $160,000 for each such failure.

## PART 820—PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

■ 10. The authority citation for part 820 continues to read as follows:

**Authority:** 42 U.S.C. 2201; 2282(a); 7191; 28 U.S.C. 2461 note; 50 U.S.C. 2410.

■ 11. Section 820.81 is amended by revising the first sentence to read as follows:

### § 820.81 Amount of penalty.

Any person subject to a penalty under 42 U.S.C. 2282a shall be subject to a civil penalty in an amount not to exceed $160,000 for each such violation. * * *

## PART 824—PROCEDURAL RULES FOR THE ASSESSMENT OF CIVIL PENALTIES FOR CLASSIFIED INFORMATION SECURITY VIOLATIONS

■ 12. The authority citation for part 824 continues to read as follows:

**Authority:** 42 U.S.C. 2201, 2282b, 7101 et seq., 50 U.S.C. 2401 et seq.

■ 13. Section 824.1 is amended by revising the second sentence to read as follows:

### § 824.1 Purpose and scope.

* * * Subsection a. provides that any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation or order under the Act relating to the security or safeguarding of Restricted Data or other classified information, shall be subject to a civil penalty not to exceed $120,000 for each violation. * * *

■ 14. Section 824.4 is amended by revising paragraph (c) to read as follows:

### § 824.4 Civil penalties.

* * * * *

(c) The Director may propose imposition of a civil penalty for violation of a requirement of a regulation or rule under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed $120,000 for each violation.

* * * * *

■ 15. Appendix A to part 824 is amended by:

■ a. Revising the fourth and sixth sentences of paragraph 2.e., ''Civil Penalty,'' in section VIII entitled ''Enforcement Actions''; and

■ b. Revising the last sentence of paragraph 3.d., ''Adjustment Factors,'' in section VIII entitled ''Enforcement Actions''.

The revisions read as follows:

**Appendix A to Part 824—General Statement of Enforcement Policy**

* * * * *

**VIII. Enforcement Actions**

* * * * *

2. *Civil Penalty*

* * * * *

e. * * * In no instance will a civil penalty for any one violation exceed the $120,000 statutory limit per violation. * * * Thus, the per violation cap will not shield a DOE contractor that is or should have been aware of an ongoing violation and has not reported it to DOE and taken corrective action despite an opportunity to do so from liability significantly exceeding $120,000. * * *

* * * * *

3. *Adjustment Factors*

* * * * *

d. * * * Based on the degree of such factors, DOE may escalate the amount of civil penalties up to the statutory maximum of $120,000 per violation per day for continuing violations.

* * * * *

## PART 851—WORKER SAFETY AND HEALTH PROGRAM

■ 16. The authority citation for part 851 continues to read as follows:

**Authority:** 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 et seq.; 42 U.S.C. 7101 et seq.; 50 U.S.C. 2401 et seq.

■ 17. Section 851.5 is amended by revising the first sentence of paragraph (a) to read as follows:

**§ 851.5 Enforcement.**

(a) A contractor that is indemnified under section 170d. of the AEA (or any subcontractor or supplier thereto) and that violates (or whose employee violates) any requirement of this part shall be subject to a civil penalty of up to $80,000 for each such violation. * * *

* * * * *

■ 18. Appendix B to part 851 is amended by:

■ a. Revising the last sentences of paragraphs (b)(1) and (b)(2) in section VI;

■ b. Revising paragraph 1.(e)(1) in section IX ; and

■ c. Revising the fourth sentence in paragraph 2.(f) in section IX.

The revisions read as follows:

**Appendix B to Part 851—General Statement of Enforcement Policy**

* * * * *

**VI. Severity of Violations**

(b) * * *

(1) * * * A Severity Level I violation would be subject to a base civil penalty of up to 100% of the maximum base civil penalty of $80,000.

(2) * * * A Severity Level II violation would be subject to a base civil penalty up to 50% of the maximum base civil penalty ($40,000).

* * * * *

IX. Enforcement Actions

* * * * *

1. *Notice of Violation*

* * * * *

(e) * * *

(1) DOE may assess civil penalties of up to $80,000 per violation per day on contractors (and their subcontractors and suppliers) that are indemnified by the Price-Anderson Act, 42 U.S.C. 2210(d). *See* 10 CFR 851.5(a).

* * * * *

2. *Civil Penalty*

* * * * *

(f) * * * In no instance will a civil penalty for any one violation exceed the statutory limit of $80,000 per day. * * *

* * * * *

## PART 1013—PROGRAM FRAUD CIVIL REMEDIES AND PROCEDURES

■ 19. The authority citation for part 1013 continues to reads as follows:

**Authority:** 31 U.S.C. 3801–3812; 28 U.S.C. 2461 note.

■ 20. Section 1013.3 is amended by revising paragraphs (a)(1)(iv) and (b)(1)(ii) to read as follows:

**§ 1013.3 Basis for civil penalties and assessments.**

(a) * * *

(1) * * *

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $9,000 for each such claim.

* * * * *

(b) * * *

(1) * * *

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $9,000 for each such statement.

* * * * *

## PART 1017—IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

■ 21. The authority citation for part 1017 continues to read as follows:

**Authority:** 42 U.S.C. 7101 et seq.; 50 U.S.C. 2401 et seq.; 42 U.S.C. 2168; 28 U.S.C. 2461.

■ 22. Section 1017.29 is amended by revising paragraph (c) to read as follows:

**§ 1017.29 Civil penalty.**

* * * * *

(c) *Amount of penalty.* The Director may propose imposition of a civil penalty for violation of a requirement of a regulation under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed $160,000 for each violation.

* * * * *

## PART 1050—FOREIGN GIFTS AND DECORATIONS

■ 23. The authority citation for part 1050 continues to read as follows:

**Authority:** The Constitution of the United States, Article I, Section 9; 5 U.S.C. 7342; 22 U.S.C. 2694; 42 U.S.C. 7254 and 7262; 28 U.S.C. 2461 note.

■ 24. Section 1050.303 is amended by revising the last sentence in paragraph (d) to read as follows:

**§ 1050.303 Enforcement.**

* * * * *

(d) * * * The court in which such action is brought may assess a civil penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $9,000.

[FR Doc. 2013–31326 Filed 12–31–13; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 61 and 141

**[Docket No.: FAA–2013–0809]**

### Notice of Policy Change for the Use of FAA Approved Training Devices

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

**ACTION:** Policy statement.

**SUMMARY:** The notification provides information and guidance concerning the use of FAA approved ground trainers, Personal Computer Aviation Training Device's (PCATD), Flight Training Devices (FTD) level 1–3, and Aviation Training Devices (ATD).

**DATES:** *Effective Date:* The policy described herein is effective February 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this policy notice, contact AFS–810, Airmen Certification and Training Branch, 800 Independence Ave. SW., Washington, DC 20591 202–385–9600

**SUPPLEMENTARY INFORMATION:**

## Background

Since the 1970s, the FAA has gradually expanded the use of flight simulation for training—first permitting simulation to be used in air carrier training programs and eventually permitting pilots to credit time in devices toward the aeronautical experience requirements for certification and recency. Currently, Title 14 of the Code of Federal Regulations (14 CFR) part 60 governs the qualification of full flight simulators and flight training devices (levels 4 through 7). The FAA has, however, approved other devices for use in certification training under the authority provided in 14 CFR 61.4(c).

For over 30 years, the FAA has issued Letters of Authorization (LOAs) to manufacturers of ground trainers, personal computer-based aviation training devices (PCATD), FTDs (levels 1 through 3), basic aviation training devices (BATD), and advanced aviation training devices (AATD). These LOAs were based on guidance provided in advisory circulars that set forth the qualifications and capabilities for the devices. Prior to 2008, most LOAs were issued under the guidance provided in advisory circular AC 61–126, Qualification and Approval of Personal Computer-Based Aviation Training Devices, and AC 120–45, Airplane Flight Training Device Qualification. Since July 2008, the FAA has been approving devices in accordance with Advisory Circular 61–136, FAA Approval of Basic Aviation Training Devices (BATD) and Advanced Aviation Training Devices (AATD).

Generally, the LOAs that have been issued list the approved uses for the devices with specific regulatory references. Several of these regulations have changed over the years, and some approved uses are no longer permissible.[1] In addition, the majority of these LOAs were issued to manufacturers without a specific expiration date. The LOAs simply placed obligations on the manufacturer and the eventual operator of the device to ensure that the device was properly maintained and that annual reports were submitted to the FAA regarding the status and continued use of the device. It is unclear the extent that these reporting requirements have been satisfied. Moreover, devices approved prior to July 2008 have not been assessed under the most current guidance provided in AC 61–136.

In 2009, the FAA issued a final rule that placed express limits on the amount of instrument training in an ATD that could be credited toward the aeronautical experience requirements for an instrument rating. 74 FR 42500 (Aug. 21, 2009). Under § 61.65(i), no more than 10 hours of instrument time received in an ATD may be credited toward instrument time requirements of that section. Likewise, appendix C to part 141 states that credit for instrument training in an ATD cannot exceed 10% of the total flight training hour requirements of an approved course.

The FAA has determined that it may not use LOAs as a means to exceed express limits that have been placed in the regulations through notice and comment rulemaking. As such, any LOAs for new devices that the FAA has issued since August 2013 reflect current regulatory requirements. Because, however, manufacturers and operators who hold LOAs issued prior to August 2013, have acted in reliance on FAA statements that were inconsistent with the regulations, the FAA is granting a limited exemption from the requirement in the regulations to provide manufacturers, operators, and pilots currently training for an instrument rating time to adjust to the reduction in hours. This short-term exemption will provide an interim period to transition the LOAs for currently approved devices in accordance with this policy.[2] This exemption is in the public interest because it will prevent undue harm caused by reasonable reliance on FAA statements.

In addition, the FAA notes that, notwithstanding any statements in existing LOAs, only FFS and FTDs levels 4–7 approved under part 60 may be used during a practical test as noted in the appropriate Practical Test Standards (PTS) for the certificate or rating sought. The current PTSs reflect that no portion of a practical test may be conducted in an ATD.

## Policy

Due to regulatory changes, new standards for qualifying aviation training devices, and ongoing improvements in technology, the FAA has determined that it is necessary to ensure all approved devices meet current standards contained in AC 61–136 (issued in July 2008) and are consistent with existing regulations. As such, all manufacturers of devices[3] (including ground trainers, PCATD, FTD level 1–3, and ATDs) who currently hold an LOA (or any other official method of approval) must apply for a new LOA. By January 1, 2015, all FAA approved training devices must have an LOA that has been reissued by AFS–800 (excluding part 60 approvals) that: (1) Assesses the training device under the standards in current AC 61–136; (2) contains an expiration date; and (3) reflects current regulatory requirements. The only exception to the reapplication requirement in this notice applies to new devices that received their first LOAs after August 23, 2013. As noted, these devices have been approved in accordance with AC 61–136, contain expiration dates, and reference the appropriate regulatory limitations.

After January 1, 2015, all LOAs previously issued prior to August 23, 2013, for training devices approved to meet requirements under parts 61 and 141 will terminate. This means that experience obtained in these devices may no longer be credited toward aeronautical experience or currency requirements in parts 61 and 141. In order to promote standardization, LOAs for any training device used for certification and recency under parts 61 and 141 that are not approved by the National Simulator Program AFS–205 will be issued only by General Aviation and Commercial Division, AFS–800. The FAA notes that, as part of this process, renewed LOAs (as well as any LOA issued for a new device) will contain limitations for instrument training that are consistent with the express aeronautical experience limits

[1] Some of these devices at one time were approved for practical tests for pilot certification and ratings. However, because these trainers are not tested to the levels of fidelity required for FFSs and FTDs, they are no longer listed in the PTS for use during testing. Specifically, level 1–3 flight training devices have been removed from the task table in each PTS.

[2] The FAA is granting an exemption from § 61.65(i) for pilots applying for an instrument rating who have received training from a training provider who operates an ATD under the reduced training hours. The FAA is also granting an exemption to training providers from appendix C to part 141 to permit them to continue to train during the transition period under training programs with more than 10% of the training time in ATDs.

[3] The FAA expects that most requests for approval will come from the ATD manufacturer. However, the FAA understands that in some cases the manufacturer may no longer exist or may not wish to seek approval for a particular device. As such, the FAA will accept approval requests from individual ATD owners. An ATD owner can be considered synonymous with a manufacturer for the purpose of submitting and receiving device approvals as described in this notice.

for an instrument rating found in § 61.65 and appendix C to part 141.

LOAs that are reissued in accordance with this notice will contain language noting the previously discussed exemption that will permit operators of approved devices to continue to use ATDs at the higher levels set forth in the previously approved LOAs—and pilots applying for an instrument rating will be permitted to take the practical test with the aeronautical experience set forth in the LOAs—until January 1, 2015. After this date, no applicant for an instrument rating may use more than 10 hours of instrument training in an ATD toward the minimum aeronautical experience requirements required to take the practical test for an instrument rating. In addition, no graduate of a training program approved under appendix C to part 141 may credit more than 10% of the required coursework in ATDs (unless that program has been approved in accordance with § 141.55(d) or (e)).[4] The FAA expects manufacturers and operators to adjust training in advance of this date so that no applicant for an instrument rating is ineligible. The FAA notes that the regulations do not place a limit on the amount of time that a person may train in an ATD. Rather, the regulations place a limit on the amount of time in an ATD that may be credited toward the aeronautical experience requirements for an instrument rating. Operators may continue to use these devices to improve pilot proficiency and reduce more costly time in an aircraft.

In order for any device, regardless of issue date, to be used to gain the aeronautical experience and currency described in the letter of authorization, that device must continue to perform to standards required by that authorization. In addition, all conditions noted on the letter of authorization must continue to be valid. These conditions may include an annual periodic inspection and stakeholder report verifying performance to original standards.

[4] Part 141 Appendix C describes the curriculum requirements for an approved training course. After January 1, 2015, no courses approved under part 141 appendix C rating may allow for more than 10% of the required coursework to have been completed in an ATD. After January 1, 2015, no person may graduate from a course that allows for more than 10% of the required coursework to have been completed in an ATD. The exception is those courses that have been approved under § 141.55 (d) and (e). The FAA recognizes that some pilot schools will need to revise their instrument-rating training program to reflect the 10% crediting limitation and resubmit for approval. Alternatively, a pilot school may elect to resubmit their training course for approval under § 141.55 (d) and (e).

**Applications for new LOAs**

As noted above, all devices that received initial approval before August 23, 2013 will require a new LOA to be issued before January 1, 2015, in order to continue to be used to obtain aeronautical experience to meet requirements under parts 61 and 141. The FAA does not intend to reevaluate every individual device as is the case for FFSs and FTDs under part 60. Rather, the FAA wants to ensure that the type of device meets acceptable standards for use in crediting aeronautical experience and currency. The manufacturer will be responsible for providing a copy of the renewed LOA to any operator of the device.

**Devices that received approval between July 14, 2008, and August 23, 2013**

Devices that were approved between July 14, 2008 and August 23, 2013 have been assessed under the current standards in AC 61–136; however, these devices may not contain the current regulatory limits of § 61.65(i) or part 141 Appendix C. Any LOA issued after July 14, 2008, may be reissued without the need for additional evaluation. Manufacturers must, however, submit a letter to the General Aviation and Commercial Division (AFS–800), including a copy of the original authorization, requesting a revised LOA that will contain regulatory references that reflect current requirements. If the LOA contains an expiration date, this new authorization will retain the original expiration date.[5] For LOAs originally issued without an expiration date, the new LOA will reflect a five-year expiration date.

The new LOA will replace and supersede the previous authorization. However, as noted, the FAA will continue to accept applicants for the instrument rating practical test who need to credit more than 10 hours of instrument time in an ATD to meet the minimum aeronautical experience requirements until January 1, 2015.

**Devices approved prior to July 14, 2008**

All devices (including ground trainers, PCATD, FTD level 1–3, and ATDs) for which an LOA (or any other official method of approval) was issued prior to July 2008 must be reevaluated under the standards set forth in the current advisory circular. Manufacturers of these devices will be required to demonstrate that the device meets the current standards for ATDs set forth in AC 61–136. The manufacturer must request this evaluation by the means described in AC 61–136 no later than July 1, 2014, in order to ensure that the FAA has adequate time to evaluate the device and issue a new LOA before the existing LOA terminates on January 1, 2015. The FAA cannot guarantee that applications for reissued LOAs that are received after July 1, 2014, will be processed prior to the termination date. The LOAs reissued for these devices will be revised to contain expiration dates and reflect current regulatory requirements and references.

[5] Since January 2012, all LOAs have been issued to manufacturers with a five-year expiration date.

**Disposition**

The FAA has initiated a revision to AC 61–136 and will amend obsolete guidance concerning the approval and use of PCATD's, FTD's (level 1–3) and ATDs. The FAA will insert into AC 61–136 all of the above policy concerning these training devices. Please direct any questions or requests concerning information in this notice to AFS–810, Airmen Certification and Training Branch, 800 Independence Ave. SW., Washington, DC 20591.

Issued in Washington, DC, on December 19, 2013.

**John Barbagallo,**

*Acting Deputy Director, Flight Standards Service.*

[FR Doc. 2013–31094 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### 15 CFR Parts 740, 742, 744, 770, 772 and 774

**[Docket No. 110928603–3999–02]**

**RIN 0694–AF39**

### Revisions to the Export Administration Regulations: Military Vehicles; Vessels of War; Submersible Vessels, Oceanographic Equipment; Related Items; and Auxiliary and Miscellaneous Items That the President Determines No Longer Warrant Control Under the United States Munitions List; Final Rule; Correction

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule; correction

**SUMMARY:** The Bureau of Industry and Security (BIS) is correcting a final rule that appeared in the **Federal Register** of July 8, 2013 (78 FR 40892) (here and after referred to as the July 8 rule), which becomes effective on January 6, 2014. The July 8 rule adds to the Export Administration Regulations (EAR) controls on military vehicles and related

items; vessels of war and related items; submersible vessels, oceanographic equipment and related items; and auxiliary and miscellaneous items that the President has determined no longer warrant control on the United States Munitions List (USML). The July 8 rule also adds to the EAR controls on items within the scope of the Munitions List (WAML) of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement) that are not specifically identified on the USML or the Commerce Control List (CCL) but that were subject to USML jurisdiction. Finally, the July 8 rule moves certain items that were already subject to the EAR to the new Export Control Classification Numbers (ECCNs) created by this rule. The July 8 rule was published in conjunction with the publication of a Department of State, Directorate of Defense Trade Controls rule revising USML Categories VII, VI, XX, and XIII to control those articles the President has determined warrant control in those Categories of the USML. Both rules are part of the President's Export Control Reform Initiative. The revisions in the July 8 final rule are also part of Commerce's retrospective regulatory review plan under Executive Order (EO) 13563. The Department of State is also correcting today its final rule that appeared in the **Federal Register** of July 8, 2013 (78 FR 40922).

**DATES:** This rule is effective January 6, 2014.

**ADDRESSES:** Commerce's full plan can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-planretrospective-analysis-existing-rules.*

**FOR FURTHER INFORMATION CONTACT:** For questions regarding ground vehicles and related items controlled under ECCNs 0Y606, contact Gene Christiansen, Office of National Security and Technology Transfer Controls, at 202–482–2984 or *gene.christiansen@bis.doc.gov.*

For questions regarding surface vessels and related items controlled under ECCNs 8Y609 or submersible vessels and related items controlled under ECCNs 8Y620, contact Alexander Lopes, Office of Nonproliferation and Treaty Compliance, at 202–482–4875 or *alexander.lopes@bis.doc.gov.*

For questions regarding miscellaneous equipment, materials, and related items controlled under ECCNs 0Y617, contact Michael Rithmire, Office of National Security and Technology Transfer Controls, at 202–482–6105 or *michael.rithmire@bis.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The Bureau of Industry and Security (BIS) provides the following corrections to the final rule that appeared in the **Federal Register** of July 8, 2013 (78 FR 40892). These include correcting regulatory text to ensure the regulatory text reflects the intent of the July 8 final rule and the regulatory text of other final rules published implementing Export Control Reform. In addition, these corrections remove references to Export Control Classification Number (ECCN) 8A018 in other parts of the EAR because it is no longer needed based on the amendments included in the July 8 final rule.

In FR Doc. 2013–16238 appearing on page 40892 in the **Federal Register** of Monday, July 8, 2013, the following corrections are made:

1. On page 40892, in the first column, in the heading, ''15 CFR Parts 740, 742, 770, 772 and 774'' is corrected to read ''15 CFR Parts 740, 742, 744, 770, 772 and 774''.

2. On page 40907, in the third column, at the end of the preamble text that begins with the heading ''Amendments to ECCN 8A018'' add the new heading and preamble text, ''Conforming Changes for Amendments to ECCN 8A018 This final rule makes conforming changes to Supplement No. 2 to part 744—List of Items Subject to the Military End-use License Requirement of § 744.21, and ECCNs 8A002, 8A992, 8D001 and 8E001 to remove references to ECCN 8A018. The references to ECCN 8A018 are no longer needed in these other EAR references because of the amendments made to ECCN 8A018 in this final rule.''

3. On page 40910, in the second column, before the Regulatory Requirements section add the new heading and preamble text, ''Clarification of ''600 series'' .y Paragraphs BIS has received questions from the public regarding the classification of ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' for commodities specified in the respective ''600 series'' .y paragraphs. These questioners believed BIS's intent was likely that such ''parts,'' ''components,'' ''accessories,'' and ''attachments,'' were also intended to be classified under those respective .y paragraphs and not under ''600 series'' .x paragraphs. To clarify the classification of such commodities, BIS adds the phrase ''and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor'' to the end of the .y paragraphs in ECCNs 0A606, 0A617, 0B617, 8A609, 8A620, 8B609 and 8B620. These changes to these .y paragraphs will make it clear that such commodities are also classified under the .y paragraphs in these respective ''600 series'' ECCNs.''

4. On page 40911, in the first column, the list of subjects and the words of issuance are corrected to read as follows:

**List of Subjects**

*15 CFR Part 740*

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

*15 CFR Part 742*

Exports, Terrorism.

*15 CFR Part 744*

Exports, Reporting and recordkeeping requirements, Terrorism.

*15 CFR Parts 770 and 772*

Exports.

*15 CFR Part 774*

Exports, Reporting and recordkeeping requirements.

## PART 744—[Corrected]

■ 5. On page 40911, at the top of the third column before the Part 770 heading, add the following amendments:

■ 4a. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 17, 2013, 78 FR 4303 (January 22, 2013) Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

■ 4b. Supplement No. 2 to part 744—LIST OF ITEMS SUBJECT TO THE MILITARY END-USE LICENSE REQUIREMENT OF § 744.21, is amended by revising paragraph (8)(i) to read as follows:

**SUPPLEMENT NO. 2 TO PART 744—LIST OF ITEMS SUBJECT TO THE MILITARY END-USE LICENSE REQUIREMENT OF § 744.21**

* * * * *

(8) * * *

(i) 8A992 Limited to underwater systems or equipment, not controlled by 8A001 or 8A002, and ''specially designed'' ''parts'' therefor.

* * * * *

■ 6. On page 40911, in the third column and on page 40912 in the first column, in Supplement No. 1 to part 774 (the Commerce Control List), ECCN 0A018, in amendment 10, the instruction ''a. Adding a sentence to the end of the Related Controls paragraph in the List of Items Controlled section as set forth below; and b. Removing and reserving paragraph a in the Items paragraph of the List of Items Controlled section:'' is corrected to read ''a. Adding a sentence to the end of the Related Controls paragraph in the List of Items Controlled section as set forth below;

■ b. Removing the phrase ''$5000 for 0A018.a'' in the LVS paragraph in the License Exceptions paragraph in the List of Items Controlled section; and

■ c. Removing and reserving paragraph a in the Items paragraph of the List of Items Controlled section:''

■ 7. On page 40912, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0A606, ''items'' paragraph a in the List of Items Controlled section is corrected to read ''Ground vehicles, whether manned or unmanned, ''specially designed'' for a military use and not enumerated or otherwise described in USML Category VII.''

■ 8. On page 40912, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0A606, in Note 1 to paragraph a, the second paragraph (iv) is redesignated as paragraph (v) and corrected to read *''(v) trailers ''specially designed'' for use with other ground vehicles enumerated in USML Category VII or ECCN 0A606.a, and not separately enumerated or otherwise described in USML Category VII. For purposes of this note, the term ''modified'' does not include incorporation of safety features required by law, cosmetic changes (e.g., different paint or repositioning of bolt holes) or addition of ''parts'' or ''components'' available prior to 1956.''*

■ 9. On page 40912, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0A606, ''items'' paragraph x in the List of Items Controlled section is corrected to read ''x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity enumerated or otherwise described in ECCN 0A606 (other than 0A606.b or 0A606.y) or a defense article enumerated in USML Category VII and not elsewhere specified on the USML or in 0A606.y.''

■ 10. On page 40912, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0A606, in Note 2 to the ''items'' paragraph x in the List of Items Controlled section, is corrected to read ''Note 2: *''Parts,'' ''components,'' ''accessories'' and ''attachments'' enumerated in USML paragraph VII(g) are subject to the controls of that paragraph. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' described in ECCN 0A606.y are subject to the controls of that paragraph.''*

■ 11. On page 40912, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0A606, the introductory text of ''items'' paragraph y in the List of Items Controlled section is corrected to read ''y. Specific ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' for a commodity enumerated or otherwise described in this ECCN (other than ECCN 0A606.b) or for a defense article in USML Category VII and not elsewhere specified on the USML or the CCL, as follows, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor:''

■ 12. On page 40913, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0A617, the introductory text of ''items'' paragraph y in the List of Items Controlled section is corrected to read ''y. Other commodities as follows, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor:''

■ 13. On page 40913, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0B606, the heading is corrected to read ''0B606 Test, inspection, and production ''equipment'' and related commodities, not enumerated on the USML, ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 0A606 or USML Category VII (see List of Items Controlled).''

■ 14. On page 40913, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0B606, ''items'' paragraph a in the List of Items Controlled section, is corrected to read ''a. Test, inspection, and production ''equipment'' ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 0A606 (except for 0A606.b or 0A606.y) or in USML Category VII, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor.''

■ 15. On page 40913, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0B606, ''items'' paragraph b in the List of Items Controlled section is corrected to read ''b. Environmental test facilities ''specially designed'' for the certification, qualification, or testing of commodities enumerated or otherwise described in ECCN 0A606 (except for 0A606.b or 0A606.y) or in USML Category VII, and ''equipment'' ''specially designed'' therefor.''

■ 16. On page 40914, in the first column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0B617, the heading is corrected to read ''0B617 Test, inspection, and production ''equipment'' and related commodities ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 0A617 or USML Category XIII, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor (see List of Items Controlled).''

■ 17. On page 40914, in the first column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0B617, ''items'' paragraph a in the List of Items Controlled section is corrected to read ''a. Test, inspection, and production ''equipment'' not controlled by USML Category XIII(k) ''specially designed'' for the ''production,'' ''development,'' repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 0A617, (except for 0A617.y) or USML Category XIII, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor.''

■ 18. On page 40914, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0C606, the ''items'' paragraph, including the Note, in the List of Items Controlled section, is corrected to read ''*Items:* Materials ''specially designed'' for commodities enumerated or otherwise described in ECCN 0A606 (other than 0A606.b or 0A606.y) or USML Category VII, not elsewhere specified in the USML or the CCL. Note: *Materials ''specially designed'' for both ground vehicles enumerated or otherwise described in USML Category VII and ground vehicles enumerated or otherwise described in ECCN 0A606 are subject to the controls of this ECCN unless identified in USML Category*

*VII(g) as being subject to the controls of that paragraph.*

■ 19. On page 40914, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0D606, ''Related Controls'' paragraph (1) in the List of Items Controlled section is corrected to read ''(1) Software directly related to articles enumerated or otherwise described in USML Category VII are subject to the controls of USML paragraph VII(h).''

■ 20. On page 40914, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 0D606, ''items'' paragraph y in the List of Items Controlled section is corrected to read ''y. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation, or maintenance of commodities described in ECCN 0A606.y.''

■ 21. On page 40915, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in 0E606, ''items'' paragraph a in the List of Items Controlled section is corrected to read ''a. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 0A606 (except for ECCNs 0A606.b or 0A606.y).''

■ 22. On page 40915, at the middle of the third column, add the following amendment:

17a. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8—Marine, ECCN 8A002 is amended by revising the ''Related Controls'' paragraph (1) in the List of Items Controlled section to read as follows:

**8A002 Marine systems, equipment, ''parts'' and ''components,'' as follows (see List of Items Controlled).**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See also 8A992 and for underwater communications systems, see Category 5, Part I—Telecommunications. * * *

* * * * *

■ 23. On page 40916, in the first column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8A609, ''items'' paragraph a introductory text in the List of Items Controlled section is corrected to read ''a. Surface vessels of war ''specially designed'' for a military use and not enumerated or otherwise described in the USML.''

■ 24. On page 40916, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8A609, ''items'' paragraph x introductory text in the List of Items Controlled section is corrected to read ''x. Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity enumerated or otherwise described in ECCN 8A609 (except for 8A609.y) or a defense article enumerated or otherwise described in USML Category VI and not specified elsewhere on the USML or in 8A609.y.''

■ 25. On page 40916, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8A609, ''items'' paragraph y introductory text in the List of Items Controlled section is corrected to read ''y. Specific ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' for a commodity subject to control in this ECCN or for a defense article in USML Category VI and not elsewhere specified in the USML, as follows, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor:''.

■ 26. On page 40917, in the first column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8A620, ''items'' paragraph a introductory text in the List of Items Controlled section is corrected to read ''a. Submersible and semi-submersible vessels ''specially designed'' for a military use and not enumerated or otherwise described in the USML.''

■ 27. On page 40917, in the first column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8A620, ''items'' paragraph x in the List of Items Controlled section is corrected to read ''x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity enumerated or elsewhere described in ECCN 8A620 (except for 8A620.b or .y) and not specified elsewhere on the USML or in 8A620.y.''

■ 28. On page 40917, in the first column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8A620, ''items'' paragraph y introductory text in the List of Items Controlled section is corrected to read ''y. Specific ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' for a commodity subject to control in this ECCN, as follows, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor:''.

■ 29. On page 40917, at the top of the second column, add the following amendments: 19a. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8—Marine, ECCN 8A992 is amended:

■ a. By revising the heading; and

■ b. By revising the ''Related Controls'' paragraph in the List of Items Controlled section to read as follows:

**8A992 Vessels, marine systems or equipment, not controlled by 8A001 or 8A002, and ''specially designed'' ''parts'' and ''components'' therefor, and marine boilers and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' therefor (see List of Items Controlled).**

* * * * *

**List of Items Controlled**

*Related Controls:* See also 8A002.

* * * * *

■ 30. On page 40917, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 8B609, the heading is corrected to read ''8B609 Test, inspection, and production ''equipment'' and related commodities ''specially designed'' for the ''development,'' ''production,'' repair, overhaul or refurbishing of commodities enumerated or otherwise described in ECCN 8A609 or USML Category VI (except for Cat VI(f)(7)), as follows (see List of Items Controlled).''

■ 31. On page 40917, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 8B609, ''items'' paragraph a in the List of Items Controlled section is corrected to read ''a. Test, inspection, and production ''equipment'' ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 8A609 (except for 8A609.y) or in USML Category VI (except for USML Cat VI(f)(7)), and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor.''

■ 32. On page 40917, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 8B620, the heading is corrected to read ''8B620 Test, inspection, and production ''equipment'' and related commodities ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 8A620 (see List of Items Controlled).''

■ 33. On page 40917, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8B620, ''items'' paragraph a in the List of Items Controlled section, is corrected to read ''a. Test, inspection and production ''equipment'' ''specially designed'' for the ''development,''

''production,'' repair, overhaul or refurbishing of commodities enumerated or otherwise described in ECCN 8A620 (except for 8A620.b and .y) and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor.''

■ 34. On page 40917, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List) in ECCN 8B620, ''items'' paragraph b in the List of Items Controlled section, is corrected to read ''b. Test, inspection, and production ''equipment'' ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities enumerated or otherwise described in ECCN 8A620.b and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor.''

■ 35. On page 40917, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 8C609, the ''Related Controls'' paragraph (1) in the List of Items Controlled section is corrected to read ''(1) See USML Categories VI and XIII(f) for controls on materials ''specially designed'' for vessels of war enumerated or otherwise described in USML Category VI.''

■ 36. On page 40918, near the top of the first column, add the following amendment: 21a. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8—Marine, ECCN 8D001 is amended by revising the heading to read as follows:

**8D001 ''Software'' ''specially designed'' or modified for the ''development,'' ''production'' or ''use'' of equipment or materials, controlled by 8A (except 8A992), 8B or 8C.**

* * * * *

■ 37. On page 40918, in the second column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 8D620, the ''Related Controls'' paragraph (1) in the List of Items Controlled section is corrected to read ''(1) ''Software'' directly related to articles enumerated or otherwise described in USML Category XX is controlled under USML Category XX(d).''

■ 38. On page 40918, near the bottom of the second column, add the following amendment: 22a. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8—Marine, ECCN 8E001 is amended by revising the heading to read as follows:

**8E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment or materials, controlled by 8A (except 8A992), 8B or 8C.**

* * * * *

■ 39. On page 40918, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 8E609, the ''Related Controls'' paragraph in the List of Items Controlled section is corrected to read ''*Related Controls:* Technical data directly related to articles enumerated or otherwise described in USML Category VI are controlled under USML Category VI(g).''

■ 40. On page 40918, in the third column, in Supplement No. 1 to part 774 (the Commerce Control List), in ECCN 8E620, the ''Related Controls'' paragraph in the List of Items Controlled section is corrected to read ''*Related Controls:* Technical data directly related to articles enumerated or otherwise described in USML Category XX are controlled under USML Category XX(d).''

Dated: December 18, 2013.

**Kevin J. Wolf,**

*Assistant Secretary of Commerce for Export Administration.*

[FR Doc. 2013–30622 Filed 12–31–13; 8:45 am]

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## DEPARTMENT OF STATE

### 22 CFR Parts 120, 121, 123, 124, and 126

**[Public Notice 8566]**

**RIN 1400–AD40**

### Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform; Correction

**AGENCY:** Department of State.

**ACTION:** Final rule, correction.

**SUMMARY:** The Department of State is correcting a final rule that appeared in the **Federal Register** of July 8, 2013 (78 FR 40922). That rule amended the International Traffic in Arms Regulations (ITAR) to revise four U.S. Munitions List (USML) categories and provide new and revised definitions.

**DATES:** This rule is effective January 6, 2014.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah J. Heidema, Deputy Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2809; email *DDTCResponseTeam@state.gov*. ATTN: Regulatory Change, Corrections to Second ECR Final Rule.

**SUPPLEMENTARY INFORMATION:** The Department provides the following corrections to the rule, ''Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform,'' published on July 8, 2013 and effective on January 6, 2014 (78 FR 40922). As part of the President's Export Control Reform (ECR) effort, that rule amended the International Traffic in Arms Regulations (ITAR) to revise four U.S. Munitions List (USML) categories and provide new and revised definitions.

The changes in this rule are meant to clarify the regulation by correcting punctuation, providing exact effective dates for the paragraphs regarding developmental articles, and providing a revised Supplement No. 1 to part 126, which takes into account the changes made to the USML categories revised in the rule published on July 8, 2013.

Pursuant to ECR, the Department of Commerce has been publishing revisions to the Export Administration Regulations, including various revisions to the Commerce Control List (CCL). Revision of the USML and CCL are coordinated so there is uninterrupted regulatory coverage for items moving from the jurisdiction of the Department of State to that of the Department of Commerce. The Department of Commerce's companion to the rule corrected in this notice (*see* ''Revisions to the Export Administration Regulations: Military Vehicles; Vessels of War; Submersible Vessels, Oceanographic Equipment; Related Items; and Auxiliary and Miscellaneous Items That the President Determines No Longer Warrant Control Under the United States Munitions List,'' 78 FR 40892) is also corrected in this edition of the **Federal Register**.

The following corrections are made to the rule, ''Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform,'' published on July 8, 2013:

■ 1. On page 40924, in the third column, in the second from last paragraph, after ''introduction,'' add the following: ''The Department also notes that paragraph (d)(1) controls ablative materials, articles the subject of unrevised USML Category IV(f). The Department reiterates the principle provided in the first rule implementing Export Control Reform (*see* 78 FR 22740): where there is overlap in control regarding a particular article, the control of the revised USML category supersedes that of the unrevised USML category.''

## PART 121—[CORRECTED]

### § 121.1 [Corrected]

■ 2. On page 40928, in the first column, in Category VI, paragraph (c), a comma

is placed after ''vessels'' and ''therefor.'' In Note 1 to paragraph (c), in the introductory text, ''developmental'' is removed, and a comma is placed after ''vessels'' and ''therefor.'' In Note 3 to paragraph (c), the text after ''dated'' is removed and replaced with ''July 8, 2014, or later.''

■ 3. On page 40928, in the third column, in paragraph (f)(8), a comma is placed after ''aircraft).'' In Note 2 to paragraph (f), remove ''also.''

■ 4. On page 40930, in the second column, in Category XIII, in Note 1 to paragraph (e)(7), in the introductory text, ''developmental'' is removed. In Note 3 to paragraph (e)(7), the text after ''dated'' is removed and replaced with ''July 8, 2014, or later.''

■ 5. On page 40931, in the second column, in paragraph (m)(9), the formula is replaced with the following:

$$Em = \frac{\rho_{RHA}\left(P_o - P_r\right)}{AD_{T\arg et}}$$

■ 6. On page 40931, in the third column, at the end of paragraph (m)(9), add the following: ''If witness plate is penetrated, $P_r$ is the distance from the projectile to the front edge of the witness plate. If not penetrated, $P_r$ is negative and is the distance from the back edge of the target to the projectile.'' In Category XX, in Note 1 to paragraph (a)(7), in the introductory text, ''developmental'' is removed. In Note 3 to paragraph (a)(7), the text after ''dated'' is removed and replaced with ''July 8, 2014, or later.''

## PART 126—[CORRECTED]

■ 7. On page 40933, at the end of column three, before the signature, add the following amendments:

## PART 126—GENERAL POLICIES AND PROVISIONS

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

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

■ 16. Supplement No. 1 to part 126 is revised to read as follows:

SUPPLEMENT NO. 1*

| USML category | Exclusion | (CA) § 126.5 | (AS) § 126.16 | (UK) § 126.17 |
|---|---|---|---|---|
| I–XXI | Classified defense articles and services. *See* Note 1. | X | X | X |
| I–XXI | Defense articles listed in the Missile Technology Control Regime (MTCR) Annex. | X | X | X |
| I–XXI | U.S. origin defense articles and services used for marketing purposes and not previously licensed for export in accordance with this subchapter. | | X | X |
| I–XXI | Defense services for or technical data related to defense articles identified in this supplement as excluded from the Canadian exemption. | X | | |
| I–XXI | Any transaction involving the export of defense articles and services for which congressional notification is required in accordance with § 123.15 and § 124.11 of this subchapter. | X | | |
| I–XXI | U.S. origin defense articles and services specific to developmental systems that have not obtained written Milestone B approval from the U.S. Department of Defense milestone approval authority, unless such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end-use identified in paragraph (e)(1), (e)(2), or (e)(4) of § 126.16 or § 126.17 of this subchapter and is consistent with other exclusions of this supplement. | | X | X |
| I–XXI | Nuclear weapons strategic delivery systems and all components, parts, accessories, and attachments specifically designed for such systems and associated equipment. | X | | |
| I–XXI | Defense articles and services specific to the existence or method of compliance with anti-tamper measures, where such measures are readily identifiable, made at originating Government direction. | | X | X |
| I–XXI | Defense articles and services specific to reduced observables or counter low observables in any part of the spectrum. *See* Note 2. | | X | X |
| I–XXI | Defense articles and services specific to sensor fusion beyond that required for display or identification correlation *See* Note 3. | | X | X |
| I–XXI | Defense articles and services specific to the automatic target acquisition or recognition and cueing of multiple autonomous unmanned systems. | | X | X |
| I–XXI | Nuclear power generating equipment or propulsion equipment (*e.g.,* nuclear reactors), specifically designed for military use and components therefore, specifically designed for military use. *See* also § 123.20 of this subchapter. | | | X |
| I–XXI | Libraries (parametric technical databases) specially designed for military use with equipment controlled on the USML. *See* Note 13. | | | X |

SUPPLEMENT NO. 1*—Continued

| USML category | Exclusion | (CA) § 126.5 | (AS) § 126.16 | (UK) § 126.17 |
|---|---|---|---|---|
| I–XXI | Defense services or technical data specific to applied research as defined in § 125.4(c)(3) of this subchapter, design methodology as defined in § 125.4(c)(4) of this subchapter, engineering analysis as defined in § 125.4(c)(5) of this subchapter, or manufacturing know-how as defined in § 125.4(c)(6) of this subchapter. *See* Note 12. | X | | |
| I–XXI | Defense services other than those required to prepare a quote or bid proposal in response to a written request from a department or agency of the United States Federal Government or from a Canadian Federal, Provincial, or Territorial Government; or defense services other than those required to produce, design, assemble, maintain or service a defense article for use by a registered U.S. company, or a U.S. Federal Government Program, or for end-use in a Canadian Federal, Provincial, or Territorial Government Program. *See* Note 14. | X | | |
| I | Firearms, close assault weapons, and combat shotguns | X | | |
| II(k) | Software source code related to USML Category II(c), II(d), or II(i). *See* Note 4. | | X | X |
| II(k) | Manufacturing know-how related to USML Category II(d). *See* Note 5. | X | X | X |
| III | Ammunition for firearms, close assault weapons, and combat shotguns listed in USML Category I. | X | | |
| III | Defense articles and services specific to ammunition and fuse setting devices for guns and armament controlled in USML Category II. | | | X |
| III(e) | Manufacturing know-how related to USML Category III(d)(1) or III(d)(2) and their specially designed components. *See* Note 5. | X | X | X |
| III(e) | Software source code related to USML Category III(d)(1) or III(d)(2). *See* Note 4. | | X | X |
| IV | Defense articles and services specific to man-portable air defense systems (MANPADS). *See* Note 6. | X | X | X |
| IV | Defense articles and services specific to rockets, designed or modified for non-military applications that do not have a range of 300 km (*i.e.,* not controlled on the MTCR Annex). | | | X |
| IV | Defense articles and services specific to torpedoes | | X | X |
| IV | Defense articles and services specific to anti-personnel landmines. *See* Note 15. | X | X | X |
| IV | Defense articles and services specific to cluster munitions. *See* Note 16. | X | X | X |
| IV(i) | Software source code related to USML Category IV(a), IV(b), IV(c), or IV(g). *See* Note 4. | | X | X |
| IV(i) | Manufacturing know-how related to USML Category IV(a), IV(b), IV(d), or IV(g) and their specially designed components *See* Note 5.. | X | X | X |
| V | The following energetic materials and related substances:<br>a. TATB (triaminotrinitrobenzene) (CAS 3058–38–6);.<br>b. Explosives controlled in USML Category V(a)(32) or V(a)(33);.<br>c. Iron powder (CAS 7439–89–6) with particle size of 3 micrometers or less produced by reduction of iron oxide with hydrogen;.<br>d. BOBBA–8 (bis(2-methylaziridinyl)2-(2-hydroxypropanoxy) propylamino phosphine oxide), and other MAPO derivatives;.<br>e. N-methyl-p-nitroaniline (CAS 100–15–2); or.<br>f. Trinitrophenylmethylnitramine (tetryl) (CAS 479–45–8). | | | X |
| V(c)(7) | Pyrotechnics and pyrophorics specifically formulated for military purposes to enhance or control radiated energy in any part of the IR spectrum. | | | X |
| V(d)(3) | Bis-2, 2-dinitropropylnitrate (BDNPN) | | | X |
| VI | Defense articles specific to cryogenic equipment, and specially designed components or accessories therefor, specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K ( − 170°C). | | | X |

SUPPLEMENT NO. 1*—Continued

| USML category | Exclusion | (CA) § 126.5 | (AS) § 126.16 | (UK) § 126.17 |
|---|---|---|---|---|
| VI | Defense Articles specific to superconductive electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne, or space applications and capable of operating while in motion. This, however, does not include direct current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator. | ..... | ..... | X |
| VI | Defense articles and services specific to naval technology and systems relating to acoustic spectrum control and awareness *See* Note 10. | ..... | X | X |
| VI(a) | Nuclear powered vessels | X | X | X |
| VI(e) | Defense articles and services specific to naval nuclear propulsion equipment. *See* Note 7. | X | X | X |
| VI(g) | Software source code related to USML Category VI(a) or VI(c) *See* Note 4. | ..... | X | X |
| VII | Defense articles specific to cryogenic equipment, and specially designed components or accessories therefor, specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (−170°C). | ..... | ..... | X |
| VII | Defense articles specific to superconductive electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne, or space applications and capable of operating while in motion. This, however, does not include direct current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator. | ..... | ..... | X |
| VIII | Defense articles specific to cryogenic equipment, and specially designed components and accessories therefor, specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (−170°C). | ..... | ..... | X |
| VIII | Defense articles specific to superconductive electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne, or space applications and capable of operating while in motion. This, however, does not include direct current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator. | ..... | ..... | X |
| VIII(a) | All USML Category VIII(a) items | X | | |
| VIII(f) | Developmental aircraft parts, components, accessories, and attachments identified in USML Category VIII(f). | X | | |
| VIII(i) | Manufacturing know-how related to USML Category VIII(a) or VIII(e), and specially designed parts or components therefor. *See* Note 5. | X | X | X |
| VIII(i) | Software source code related to USML Category VIII(a) or VIII(e). *See* Note 4. | ..... | X | X |
| IX | Training or simulation equipment for Man Portable Air Defense Systems (MANPADS). *See* Note 6. | ..... | X | X |
| IX(e) | Software source code related to USML Category IX(a) or IX(b). *See* Note 4. | ..... | X | X |
| IX(e) | Software that is both specifically designed or modified for military use and specifically designed or modified for modeling or simulating military operational scenarios. | ..... | ..... | X |
| X(e) | Manufacturing know-how related to USML Category X(a)(1) or X(a)(2), and specially designed components therefor. *See* Note 5. | X | X | X |
| XI(a) | Defense articles and services specific to countermeasures and counter- countermeasures *See* Note 9. | ..... | X | X |

SUPPLEMENT NO. 1*—Continued

| USML category | Exclusion | (CA) § 126.5 | (AS) § 126.16 | (UK) § 126.17 |
|---|---|---|---|---|
| XI(a) | High Frequency and Phased Array Microwave Radar systems, with capabilities such as search, acquisition, tracking, moving target indication, and imaging radar systems. *See* Note 17. | | X | |
| XI | Defense articles and services specific to naval technology and systems relating to acoustic spectrum control and awareness. *See* Note 10. | | X | X |
| XI(b), XI(c), XI(d) | Defense articles and services specific to USML Category XI (b) (*e.g.,* communications security (COMSEC) and TEMPEST). | | X | X |
| XI(d) | Software source code related to USML Category XI(a). *See* Note 4. | | X | X |
| XI(d) | Manufacturing know-how related to USML Category XI(a)(3) or XI(a)(4), and specially designed components therefor. *See* Note 5. | X | X | X |
| XII | Defense articles and services specific to countermeasures and counter- countermeasures. *See* Note 9. | | X | X |
| XII | Defense articles and services specific to USML Category XII(c) articles, except any 1st- and 2nd-generation image intensification tubes and 1st- and 2nd-generation image intensification night sighting equipment. End-items in USML Category XII(c) and related technical data limited to basic operations, maintenance, and training information as authorized under the exemption in § 125.4(b)(5) of this subchapter may be exported directly to a Canadian Government entity (*i.e.,* federal, provincial, territorial, or municipal) consistent with § 126.5, other exclusions, and the provisions of this subchapter. | X | | |
| XII | Technical data or defense services for night vision equipment beyond basic operations, maintenance, and training data. However, the AS and UK Treaty exemptions apply when such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end-use identified in paragraph (e)(1), (e)(2), or (e)(4) of § 126.16 or § 126.17 of this subchapter and is consistent with other exclusions of this supplement. | X | X | X |
| XII(f) | Manufacturing know-how related to USML Category XII(d) and specially designed components therefor. *See* Note 5. | X | X | X |
| XII(f) | Software source code related to USML Category XII(a), XII(b), XII(c), or XII(d). *See* Note 4. | | X | X |
| XIII(b) | Defense articles and services specific to USML Category XIII(b) (Military Information Security Assurance Systems, cryptographic devices, software, and components). | | X | X |
| XIII(d) | Carbon/carbon billets and preforms which are reinforced in three or more dimensional planes, specifically designed, developed, modified, configured or adapted for defense articles. | | | X |
| XIII(e) | Defense articles and services specific to armored plate manufactured to comply with a military standard or specification or suitable for military use. *See* Note 11. | | | X |
| XIII(g) | Defense articles and services related to concealment and deception equipment and materials. | | | X |
| XIII(h) | Energy conversion devices other than fuel cells | | | X |
| XIII(j) | Defense articles and services related to hardware associated with the measurement or modification of system signatures for detection of defense articles as described in Note 2. | | X | X |
| XIII(l) | Software source code related to USML Category XIII(a). *See* Note 4. | | X | X |
| XIV | Defense articles and services related to toxicological agents, including chemical agents, biological agents, and associated equipment. | | X | X |
| XIV(a), XIV(b), XIV(d), XIV(e), XIV(f) | Chemical agents listed in USML Category XIV(a), (d) and (e), biological agents and biologically derived substances in USML Category XIV(b), and equipment listed in USML Category XIV(f) for dissemination of the chemical agents and biological agents listed in USML Category XIV(a), (b), (d), and (e). | X | | |
| XV(a) | Defense articles and services specific to spacecraft/satellites. However, the Canadian exemption may be used for commercial communications satellites that have no other type of payload. | X | X | X |

SUPPLEMENT NO. 1*—Continued

| USML category | Exclusion | (CA) § 126.5 | (AS) § 126.16 | (UK) § 126.17 |
|---|---|---|---|---|
| XV(b) | Defense articles and services specific to ground control stations for spacecraft telemetry, tracking, and control. Defense articles and services are not excluded under this entry if they do not control the spacecraft. Receivers for receiving satellite transmissions are also not excluded under this entry. | | X | X |
| XV(c) | Defense articles and services specific to GPS/PPS security modules. | | X | X |
| XV(c) | Defense articles controlled in USML Category XV(c) except end-items for end-use by the Federal Government of Canada exported directly or indirectly through a Canadian-registered person. | X | | |
| XV(d) | Defense articles and services specific to radiation-hardened microelectronic circuits. | X | X | X |
| XV(e) | Anti-jam systems with the ability to respond to incoming interference by adaptively reducing antenna gain (nulling) in the direction of the interference. | X | | |
| XV(e) | Antennas having any of the following:. | | | |
| | a. Aperture (overall dimension of the radiating portions of the antenna) greater than 30 feet;. | | | |
| | b. All sidelobes less than or equal to -35 dB relative to the peak of the main beam; or. | | | |
| | c. Designed, modified, or configured to provide coverage area on the surface of the earth less than 200 nautical miles in diameter, where ''coverage area'' is defined as that area on the surface of the earth that is illuminated by the main beam width of the antenna (which is the angular distance between half power points of the beam). | X | | |
| XV(e) | Optical intersatellite data links (cross links) and optical ground satellite terminals. | X | | |
| XV(e) | Spaceborne regenerative baseband processing (direct up and down conversion to and from baseband) equipment. | X | | |
| XV(e) | Propulsion systems which permit acceleration of the satellite on-orbit (*i.e.,* after mission orbit injection) at rates greater than 0.1 g. | X | | |
| XV(e) | Attitude control and determination systems designed to provide spacecraft pointing determination and control or payload pointing system control better than 0.02 degrees per axis. | X | | |
| XV(e) | All specifically designed or modified systems, components, parts, accessories, attachments, and associated equipment for all USML Category XV(a) items, except when specifically designed or modified for use in commercial communications satellites. | X | | |
| XV(e) | Defense articles and services specific to spacecraft and ground control station systems (only for telemetry, tracking and control as controlled in USML Category XV(b)), subsystems, components, parts, accessories, attachments, and associated equipment. | | X | X |
| XV(f) | Technical data and defense services directly related to the other defense articles excluded from the exemptions for USML Category XV. | X | X | X |
| XVI | Defense articles and services specific to design and testing of nuclear weapons. | X | X | X |
| XVI(c) | Nuclear radiation measuring devices manufactured to military specifications. | X | | |
| XVI(e) | Software source code related to USML Category XVI(c). *See* Note 4. | | X | X |
| XVII | Classified articles, and technical data and defense services relating thereto, not elsewhere enumerated. *See* Note 1. | X | X | X |
| XVIII | Defense articles and services specific to directed energy weapon systems. | | X | X |
| XIX(e), XIX(f)(1), XIX(f)(2), XIX(g) | Defense articles and services specific to gas turbine engine hot section components and to Full Authority Digital Engine Control Systems (FADEC) or Digital Electronic Engine Controls (DEEC). *See* Note 8. | | X | X |
| XIX(g) | Technical data and defense services for gas turbine engine hot sections. (This does not include hardware). *See* Note 8. | X | X | X |
| XX | Defense articles and services related to submersible vessels, oceanographic, and associated equipment. | X | X | X |

SUPPLEMENT NO. 1*—Continued

| USML category | Exclusion | (CA) § 126.5 | (AS) § 126.16 | (UK) § 126.17 |
|---|---|---|---|---|
| XX | Defense articles and services specific to naval technology and systems relating to acoustic spectrum control and awareness. *See* Note 10. | | X | X |
| XX | Defense articles specific to cryogenic equipment, and specially designed components or accessories therefor, specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (−170°C). | | | X |
| XX | Defense articles specific to superconductive electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne, or space applications and capable of operating while in motion. This, however, does not include direct current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator. | | | X |
| XX(a) | Nuclear powered vessels | X | X | X |
| XX(b) | Defense articles and services specific to naval nuclear propulsion equipment. *See* Note 7. | X | X | X |
| XX(c) | Defense articles and services specific to submarine combat control systems. | | X | X |
| XX(d) | Software source code related to USML Category XX(a). *See* Note 4. | | X | X |
| XXI | Articles, and technical data and defense services relating thereto, not otherwise enumerated on the USML, but placed in this category by the Director, Office of Defense Trade Controls Policy. | X | X | X |

*Note 1:* Classified defense articles and services are not eligible for export under the Canadian exemptions. U.S. origin articles, technical data, and services controlled in USML Category XVII are not eligible for export under the UK Treaty exemption. U.S. origin classified defense articles and services are not eligible for export under either the UK or AS Treaty exemptions except when being released pursuant to a U.S. Department of Defense written request, directive, or contract that provides for the export of the defense article or service.

*Note 2:* The phrase ''any part of the spectrum'' includes radio frequency (RF), infrared (IR), electro-optical, visual, ultraviolet (UV), acoustic, and magnetic. Defense articles related to reduced observables or counter reduced observables are defined as:

(a) Signature reduction (radio frequency (RF), infrared (IR), Electro-Optical, visual, ultraviolet (UV), acoustic, magnetic, RF emissions) of defense platforms, including systems, subsystems, components, materials (including dual-purpose materials used for Electromagnetic Interference (EM) reduction), technologies, and signature prediction, test and measurement equipment and software and material transmissivity/reflectivity prediction codes and optimization software.

(b) Electronically scanned array radar, high power radars, radar processing algorithms, periscope-mounted radar systems (PATRIOT), LADAR, multistatic and IR focal plane array-based sensors, to include systems, subsystems, components, materials, and technologies.

*Note 3:* Defense Articles related to sensor fusion beyond that required for display or identification correlation is defined as techniques designed to automatically combine information from two or more sensors/sources for the purpose of target identification, tracking, designation, or passing of data in support of surveillance or weapons engagement. Sensor fusion involves sensors such as acoustic, infrared, electro optical, frequency, etc. Display or identification correlation refers to the combination of target detections from multiple sources for assignment of common target track designation.

*Note 4:* Software source code beyond that source code required for basic operation, maintenance, and training for programs, systems, and/or subsystems is not eligible for use of the UK or AS Treaty exemptions, unless such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end-use identified in paragraph (e)(1), (e)(2), or (e)(4) of § 126.16 or § 126.17 of this subchapter and is consistent with other exclusions of this supplement.

*Note 5:* Manufacturing know-how, as defined in § 125.4(c)(6) of this subchapter, is not eligible for use of the UK or AS Treaty exemptions, unless such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end-use identified in paragraph (e)(1), (e)(2), or (e)(4) of § 126.16 or § 126.17 of this subchapter and is consistent with other exclusions of this supplement.

*Note 6:* Defense Articles specific to Man Portable Air Defense Systems (MANPADS) includes missiles which can be used without modification in other applications. It also includes production and test equipment and components specifically designed or modified for MANPAD systems, as well as training equipment specifically designed or modified for MANPAD systems.

*Note 7:* Naval nuclear propulsion plants includes all of USML Category VI(e). Naval nuclear propulsion information is technical data that concerns the design, arrangement, development, manufacture, testing, operation, administration, training, maintenance, and repair of the propulsion plants of naval nuclear-powered ships and prototypes, including the associated shipboard and shore-based nuclear support facilities. Examples of defense articles covered by this exclusion include nuclear propulsion plants and nuclear submarine technologies or systems; nuclear powered vessels (*see* USML Categories VI and XX).

*Note 8:* A complete gas turbine engine with embedded hot section components or digital engine controls is eligible for export or transfer under the Treaties. Technical data, other than required for routine external maintenance and operation, related to the hot section is not eligible for export under the Canadian exemption. Technical data, other than required for routine external maintenance and operation, related to the hot section or digital engine controls, as well as individual hot section parts or components are not eligible for the Treaty exemption whether shipped separately or accompanying a complete engine. Gas turbine engine hot section exempted defense article components and technology are combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmenters; and cooled nozzles. Examples of gas turbine engine hot section developmental technologies are Integrated High Performance Turbine Engine Technology (IHPTET), Versatile, Affordable Advanced Turbine Engine (VAATE), and Ultra-Efficient Engine Technology (UEET), which are also excluded from export under the exemptions.

*Note 9:* Examples of countermeasures and counter-countermeasures related to defense articles not exportable under the AS or UK Treaty exemptions are:

(a) IR countermeasures;

(b) Classified techniques and capabilities;

(c) Exports for precision radio frequency location that directly or indirectly supports fire control and is used for situation awareness, target identification, target acquisition, and weapons targeting and Radio Direction Finding (RDF) capabilities. Precision RF location is defined as angle of arrival accuracy of less than five degrees (RMS) and RF emitter location of less than ten percent range error;

(d) Providing the capability to reprogram; and

(e) Acoustics (including underwater), active and passive countermeasures, and counter-countermeasures.

*Note 10:* Examples of defense articles covered by this exclusion include underwater acoustic vector sensors; acoustic reduction; off-board, underwater, active and passive sensing, propeller/propulsor technologies; fixed mobile/floating/powered detection systems which include in-buoy signal processing for target detection and classification; autonomous underwater vehicles capable of long endurance in ocean environments (manned submarines excluded); automated control algorithms embedded in on-board autonomous platforms which enable (a) group behaviors for target detection and classification, (b) adaptation to the environment or tactical situation for enhancing target detection and classification; ''intelligent autonomy'' algorithms which define the status, group (greater than 2) behaviors, and responses to detection stimuli by autonomous, underwater vehicles; and low frequency, broad-band ''acoustic color,'' active acoustic ''fingerprint'' sensing for the purpose of long range, single pass identification of ocean bottom objects, buried or otherwise (controlled under Category USML XI(a)(1), (a)(2), (b), (c), and (d)).

*Note 11:* This exclusion does not apply to the platforms (*e.g.,* vehicles) for which the armored plates are applied. For exclusions related to the platforms, reference should be made to the other exclusions in this list, particularly for the category in which the platform is controlled.

The excluded defense articles include constructions of metallic or non-metallic materials or combinations thereof specially designed to provide protection for military systems. The phrase ''suitable for military use'' applies to any articles or materials which have been tested to level IIIA or above IAW NIJ standard 0108.01 or comparable national standard. This exclusion does not include military helmets, body armor, or other protective garments which may be exported IAW the terms of the AS or UK Treaty.

*Note 12:* Defense services or technical data specific to applied research (§ 125.4(c)(3) of this subchapter), design methodology (§ 125.4(c)(4) of this subchapter), engineering analysis (§ 125.4(c)(5) of this subchapter), or manufacturing know-how (§ 125.4(c)(6) of this subchapter) are not eligible for export under the Canadian exemptions. However, this exclusion does not include defense services or technical data specific to build-to-print as defined in § 125.4(c)(1) of this subchapter, build/design-to-specification as defined in § 125.4(c)(2) of this subchapter, or basic research as defined in § 125.4(c)(3) of this subchapter, or maintenance (*i.e.,* inspection, testing, calibration or repair, including overhaul, reconditioning and one-to-one replacement of any defective items parts or components, but excluding any modification, enhancement, upgrade or other form of alteration or improvement that changes the basic performance of the item) of non-excluded defense articles which may be exported subject to other exclusions or terms of the Canadian exemptions.

*Note 13:* The term ''libraries'' (parametric technical databases) means a collection of technical information of a military nature, reference to which may enhance the performance of military equipment or systems.

*Note 14:* In order to utilize the authorized defense services under the Canadian exemption, the following must be complied with:

(a) The Canadian contractor and subcontractor must certify, in writing, to the U.S. exporter that the technical data and defense services being exported will be used only for an activity identified in Supplement No. 1 to part 126 of this subchapter and in accordance with § 126.5 of this subchapter; and

(b) A written arrangement between the U.S. exporter and the Canadian recipient must:

(1) Limit delivery of the defense articles being produced directly to an identified manufacturer in the United States registered in accordance with part 122 of this subchapter; a department or agency of the United States Federal Government; a Canadian-registered person authorized in writing to manufacture defense articles by and for the Government of Canada; a Canadian Federal, Provincial, or Territorial Government;

(2) Prohibit the disclosure of the technical data to any other contractor or subcontractor who is not a Canadian-registered person;

(3) Provide that any subcontract contain all the limitations of § 126.5 of this subchapter;

(4) Require that the Canadian contractor, including subcontractors, destroy or return to the U.S. exporter in the United States all of the technical data exported pursuant to the contract or purchase order upon fulfillment of the contract, unless for use by a Canadian or United States Government entity that requires in writing the technical data be maintained. The U.S. exporter must be provided written certification that the technical data is being retained or destroyed; and

(5) Include a clause requiring that all documentation created from U.S. origin technical data contain the statement that, ''This document contains technical data, the use of which is restricted by the U.S. Arms Export Control Act. This data has been provided in accordance with, and is subject to, the limitations specified in § 126.5 of the International Traffic in Arms Regulations (ITAR). By accepting this data, the consignee agrees to honor the requirements of the ITAR.''

(c) The U.S. exporter must provide the Directorate of Defense Trade Controls a semi-annual report of all their on-going activities authorized under § 126.5 of this subchapter. The report shall include the article(s) being produced; the end-user(s); the end-item into which the product is to be incorporated; the intended end-use of the product; the name and address of all the Canadian contractors and subcontractors.

*Note 15:* This exclusion does not apply to demining equipment in support of the clearance of landmines and unexploded ordnance for humanitarian purposes.

As used in this exclusion, ''anti-personnel landmine'' means any mine placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person; any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act; any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

*Note 16:* The cluster munitions that are subject to this exclusion are set forth below:

The Convention on Cluster Munitions, signed December 3, 2008, and entered into force on August 1, 2010, defines a ''cluster munition'' as:

A conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. Under the Convention, a ''cluster munition'' does not include the following munitions:

(a) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defense role;

(b) A munition or submunition designed to produce electrical or electronic effects;

(c) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:

(1) Each munition contains fewer than ten explosive submunitions;

(2) Each explosive submunition weighs more than four kilograms;

(3) Each explosive submunition is designed to detect and engage a single target object;

(4) Each explosive submunition is equipped with an electronic self-destruction mechanism; and

(5) Each explosive submunition is equipped with an electronic self-deactivating feature.

Pursuant to U.S. law (Pub. L. 111–117, section 7055(b)), no military assistance shall be furnished for cluster munitions, no defense export license for cluster munitions may be issued, and no cluster munitions or cluster munitions technology shall be sold or transferred, unless:

(a) The submunitions of the cluster munitions, after arming, do not result in more than 1 percent unexploded ordnance across the range of intended operational environments; and

(b) The agreement applicable to the assistance, transfer or sale of such cluster munitions or cluster munitions technology specifies that the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians.

*Note 17:* The radar systems described are controlled in USML Category XI(a)(3)(i) through (v). As used in this entry, the term ''systems'' includes equipment, devices, software, assemblies, modules, components, practices, processes, methods, approaches, schema, frameworks, and models.

*An ''X'' in the chart indicates that the item is excluded from use under the exemption referenced in the top of the column. An item excluded in any one row is excluded regardless of whether other rows may contain a description that would include the item.

Dated: December 17, 2013.

**Rose E. Gottemoeller,**

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

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## DEPARTMENT OF STATE

### 22 CFR Parts 121, 123, 124, and 125

**RIN 1400–AD46**

**[Public Notice 8580]**

### Amendment to the International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** As part of the President's Export Control Reform (ECR) effort, the Department of State is amending the International Traffic in Arms Regulations (ITAR) to revise five more U.S. Munitions List (USML) categories and provide other changes. The revisions contained in this rule are part of the Department of State's retrospective plan under E.O. 13563.

**DATES:** This rule is effective July 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah J. Heidema, Deputy Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2809; email *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, Third ECR Final Rule. The Department of State's full retrospective plan can be accessed at *http://www.state.gov/documents/organization/181028.pdf.*

**SUPPLEMENTARY INFORMATION:** The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The items subject to the jurisdiction of the ITAR, *i.e.,* ''defense articles'' and ''defense services,'' are identified on the ITAR's U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (''EAR,'' 15 CFR parts 730–774, which includes the Commerce Control List (CCL) in Supplement No. 1 to part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports, reexports, and retransfers. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

All references to the USML in this rule are to the list of defense articles controlled for the purpose of export or temporary import pursuant to the ITAR, and not to the defense articles on the USML that are controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for the purpose of permanent import under its regulations. *See* 27 CFR part 447. Pursuant to section 38(a)(1) of the Arms Export Control Act (AECA), all defense articles controlled for export or import are part of the USML under the AECA. For the sake of clarity, the list of defense articles controlled by ATF for the purpose of permanent import is the U.S. Munitions Import List (USMIL). The transfer of defense articles from the ITAR's USML to the EAR's CCL for the purpose of export control does not affect the list of defense articles controlled on the USMIL under the AECA for the purpose of permanent import.

**Export Control Reform Update**

Pursuant to the President's Export Control Reform (ECR) initiative, the Department published proposed revisions to thirteen USML categories—and upon the effective date of this rule will have revised fifteen USML categories—to create a more positive control list and eliminate, where possible, ''catch all'' controls in the USML. The Department, along with the Departments of Commerce and Defense, reviewed the public comments the Department received on the proposed rules and, where appropriate, revised the rules. A discussion of the comments relevant to the USML categories that are part of this rule is included later on in this rule. The Department continues to review the remaining USML categories and will publish them as proposed rules in the coming months.

Discussions of the public comments relevant to six of the USML categories that have been published as final rules are in ''Amendment to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform,'' published April 16, 2013 (78 FR 22740), and ''Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform,'' published July 8, 2013 (78 FR 40922). These rules also contain policies and procedures regarding the licensing of items moving from the export jurisdiction of the Department of State to the Department of Commerce, a definition for specially designed, responses to public comments, and changes to other sections of the ITAR that affect the categories discussed in this rule.

Pursuant to ECR, the Department of Commerce has been publishing revisions to the EAR, including various revisions to the CCL. Revision of the USML and CCL are coordinated so there is uninterrupted regulatory coverage for items moving from the jurisdiction of the Department of State to that of the Department of Commerce. The Department of Commerce's companion to this rule is, ''Control of Military Training Equipment, Energetic Materials, Personal Protective Equipment, Shelters, Articles Related to Launch Vehicles, Missiles, Rockets, Military Explosives, and Related Items.'' It is published elsewhere in this edition of the **Federal Register**.

**Changes in This Rule**

The following changes are made to the ITAR with this final rule: (i) Revision of U.S. Munitions List (USML) Categories IV (Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines), V (Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents), IX (Military Training Equipment), X (Personal Protective Equipment), and XVI (Nuclear Weapons Related Articles); (ii) addition of a definition for the term ''equipment''; (iii) continued implementation of a new licensing procedure for the export of items subject to the EAR that are to be exported with defense articles; and (iv) related changes to other ITAR sections.

**Revision of USML Category IV**

This final rule revises USML Category IV, covering launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines, to describe more precisely the articles warranting control on the USML.

Paragraph (a) is revised to remove demolition blocks and blasting caps, and to add subparagraphs (1) through (12) to more clearly describe the articles controlled in (a). ITAR § 121.11, which further describes demolition blocks and blasting caps, is removed. Paragraphs (b) and (d) are revised to more specifically enumerate the articles controlled therein. The articles of paragraph (e), military explosive excavating devices, are transferred to the jurisdiction of the Department of Commerce under ECCN 0A604.b. The articles of paragraph (f), ablative materials, were moved to USML Category XIII(d) (*see* 78 FR 40922). Paragraph (h) is revised by removing its broad catch-all wording and adding subparagraphs (1) through (29) to specifically enumerate the articles controlled in that paragraph. In addition, articles common to the Missile

Technology Control Regime (MTCR) Annex and articles in this category are identified with the parenthetical ''(MT)'' at the end of each section containing such articles.

A new ''(x) paragraph'' has been added to USML Category IV, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category IV and are described in the purchase documentation submitted with the application.

This revision of USML Category IV was first published as a proposed rule (RIN 1400–AD19) on January 31, 2013, for public comment (*see* 78 FR 6765). The comment period ended March 18, 2013. The public comments were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and recommendations follows.

The Department received proposals for alternative phrasing of the regulatory text in USML Category IV. When the recommended changes added to the clarity of the regulation and were consistent with ECR objectives, the Department accepted them.

One commenting party observed that, with regard to technical data directly related to a defense article controlled on the USML and unclassified technical data directly related to parts and components of the defense article that are controlled on the CCL, insofar as the parts and components are directly related to the defense article, certain of the technical data directly related to the defense article by virtue of being directly related to the parts and components of the defense article would not be captured by the technical data control paragraph, depending on whether the parts and components are part of the defense article at the point of export, or are proposed for export apart from the defense article. The commenting party discerns an export jurisdictional conflict. The Department clarifies that unclassified technical data directly related to the parts and components that are controlled under the CCL would not be controlled under the ITAR. The Department would, however, have export jurisdiction over aggregated technical data that included technical data directly related to a defense article. Unclassified technical data directly related to parts and components that would be controlled under the CCL would remain subject to the EAR if they were proposed for export apart from the ITAR controlled technical data.

In response to two commenting parties' requests for clarification, ''payload fairings'' controlled under paragraph (h) has been revised to control for ''rocket or missile payload fairings.''

Two commenting parties recommended changing the MT control text used in paragraph (h) from the criterion of ''usable in'' to that of ''specially designed'' so as to prevent capture of items not intended to be controlled for MT reasons. The Department did not accept this recommendation because to do so would be in contravention of the Missile Technology Control Regime Annex. In explaining the use of the term ''usable in,'' the MTCR Annex provides that, ''there is no need for the equipment, parts, components or 'software' to have been configured, modified or specified for the particular purpose.''

One commenting party recommended controlling ''pulse weapons'' under USML Category IV. The control of these articles will be addressed in a future rule that will address USML Category XVIII.

In response to two commenting parties' recommendations, the Department revised Note 1 to paragraph (b) to clarify that non-SLV launcher mechanisms for use on aircraft are controlled under USML Category VIII.

One commenting party inquired whether the use of a Missile Technology (MT) component in conjunction with non-MT components renders the whole item MT-controlled. The Department notes that the MTCR guidelines provide the following: If a Category I item is included in a system, that system will also be considered as Category I, except when the incorporated item cannot be separated, removed, or duplicated. The ITAR will follow the same policy in such circumstances, and the Department placed a note in USML Category IV to this effect.

The Department accepted the recommendation of one commenting party to control under paragraph (h) pneumatic flight control systems, in addition to hydraulic, mechanical, electro-optical, or electromechanical flight control systems already enumerated therein.

In response to the recommendation of one commenting party, the Department revised the note to paragraph (h)(17) to provide more accurate guidance for determining the export jurisdiction of spacecraft: Exporters should consult USML Category XV and, if the spacecraft is not described therein, then CCL ECCN 9A515.

One commenting party requested clarification of whether there are sounding or research rockets not controlled under the USML. The Department clarifies that all such rockets are controlled under USML Category IV.

Two commenting parties observed that the issue of control of commercial space flight was not addressed in the USML Category IV proposed rule. This matter is dealt with in the USML Category XV proposed rule, which was published on May 24, 2013 (*see* 78 FR 31444). The Department will respond to comments on the substance of that rule, including commercial space flight, in a separate final rule.

**Revision of USML Category V**

This final rule revises USML Category V, covering explosives and energetic materials, propellants, incendiary agents, and their constituents, to establish a clear ''bright line'' between the USML and the CCL for the control of these articles.

One major change of this rule is the listing of specific materials that warrant ITAR control caught by former ''catch-all'' paragraphs. Examples of materials added because of deletion of catch-all paragraphs are as follows: Tetrazines (BTAT (Bis(2,2,2-trinitroethyl)-3,6-diaminotetrazine); LAX–112 (3,6-diamino- 1,2,4,5-tetrazine- 1,4-dioxide); PNO (Poly(3-nitrato oxetane); 4,5 diazidomethyl-2-methyl-1,2,3-triazole (iso- DAMTR)); TEPB (Tris (ethoxyphenyl) bismuth) (CAS 90591–48–3); and TEX (4,10-Dinitro-2,6,8,12-tetraoxa-4,10-diazaisowurtzitane). Materials once captured in the catch-all paragraphs that do not warrant control on the USML are to be controlled on the CCL. Examples of such materials removed from various catch-all paragraphs and controlled on the CCL are spherical aluminum powder and hydrazine and its derivatives.

Articles common to the MTCR Annex and articles in this category are identified with the parenthetical ''(MT)'' at the end of each section containing such articles.

A new ''(x) paragraph'' has been added to USML Category V, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category V and are described in the purchase documentation submitted with the application.

This revision of USML Category V was first published as a proposed rule (RIN 1400–AD02) on May 2, 2012, for

public comment (*see* 77 FR 25944). The comment period ended June 18, 2012. The public comments were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and recommendations follows.

One commenting party recommended quantifying the level of concentration that would establish USML control of certain items that have commercial applications. For two of these items—RDX and its derivatives and HMX and its derivatives—the MTCR Annex does not provide for a minimum level for establishing control as a munitions item. For the other two—Tetryl and 1,3,5-trichlorobenezene—the Department determined that there is no minimum level for identifying military utility or lack thereof. Therefore, the Department did not accept this recommendation.

In response to one commenting party's concern that the changing of a control criterion for explosives in paragraph (a)(38) may lead to the control under the USML of articles previously determined to be controlled under the CCL, the Department reverted to the previously-provided threshold of 8,700m/s.

One commenting party recommended removal of the control for developmental explosives, etc., when developed under a contract with the U.S. Government because this would stymie university fundamental research. The Department does not accept this recommendation, but revised paragraph (i) to qualify the control of such articles under development.

The Department did not accept the recommendation of one commenting party to adopt the American Society for Metals definition for ''alloy'' so as to clarify the controls provided in paragraphs (c)(4)(ii)(B) and (c)(4)(iii) because the context of the controls makes clear that any alloys of materials covered in those paragraphs would automatically meet the criteria of that definition of alloy.

**Revision of USML Category IX**

This final rule revises USML Category IX, covering military training equipment, to more accurately describe the articles within this category in order to establish a ''bright line'' between the USML and the CCL for the control of these articles.

The title of the category is changed to indicate that it covers training equipment only. Training on a defense article would be a defense service covered under the category in which the defense article is enumerated.

Paragraph (a) lists all the types of training equipment covered in this category. Paragraph (b) is revised to more specifically describe the items (simulators) controlled therein. Tooling and production equipment, formerly controlled in paragraph (c), are covered on the CCL in ECCN 0B614.

Radar target generators are to be controlled in USML Category XI(a). Until the revised USML Category XI goes into effect, radar target generators are enumerated in paragraph (a). Similarly, infrared scene generators are enumerated in paragraph (a), although the intention is to control them in a revised USML Category XII.

Upon the effective date of this rule USML Category IX will not contain controls on all generic parts, components, accessories, and attachments (formerly captured in paragraph (d)) that are in any way specifically designed or modified for a defense article described in USML Category IX, regardless of their significance to maintaining a military advantage for the United States. These items are subject to the new 600 series controls in Category 0 of the CCL, published separately by the Department of Commerce elsewhere in this issue of the **Federal Register**.

A new ''(x) paragraph'' has been added to USML Category IX, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category IX and are described in the purchase documentation submitted with the application.

This revision of USML Category IX was first published as a proposed rule (RIN 1400–AD02) on June 13, 2012, for public comment (*see* 77 FR 35317). The comment period ended July 30, 2012. The public comments were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and recommendations follows.

The Department received proposals for alternative phrasing of the regulatory text in USML Category IX. When the recommended changes added to the clarity of the regulation, did not alter the intended scope of the control, and were consistent with ECR objectives, the Department accepted them.

One commenting party recommended the removal of paragraph (b)(4), which covers software used for modeling or simulation, as the control of software elsewhere on the USML is related to hardware. The commenting party was concerned that treating it differently here may cause confusion over what software is controlled in other categories. The Department did not accept this recommendation because, in this instance, the enumerated software is the object of control. The Department believes that the control for software in other categories is clear.

To address the concerns of one commenting party that paragraph (a)(2) would control articles outside the definition of a defense article, the Department added a note to that paragraph explaining that mockups of defense articles that do not reveal technical data and do not contain parts, components, accessories, or attachments controlled on the USML are themselves not controlled on the USML.

**Revision of USML Category X**

This final rule revises USML Category X, covering personal protective equipment, in order to establish a ''bright line'' between the USML and the CCL for the control of these articles.

The title of the category is changed to remove reference to shelters, as those items formerly enumerated in paragraph (b) (permanent or transportable shelters specifically designed or modified to protect against ballistic shock or impact and nuclear, biological, or chemical contamination) are now subject to the EAR and controlled under ECCN 1A613. Body armor enumerated in paragraph (a)(1) is that which meets or exceeds NIJ Standard-0101.06 Type IV. Type III body armor formerly on the USML is controlled on the CCL under ECCN 1A613. Anti-gravity suits, pressure suits, and atmosphere diving suits, formerly controlled in paragraphs (a)(3), (a)(4), and (a)(5), respectively, are now subject to the EAR. Paragraph (a)(7) controls certain protective goggles, spectacles, and visors with an optical density of greater than 3.

Equipment for the production of articles covered in this category (former paragraph (c)), are controlled on the CCL under ECCN 1B613.

Paragraph (d), which controls parts, components, assemblies, accessories, attachments, and associated equipment, is limited in scope to include only ceramic or composite body armor plates, laser protective lenses and other materials for the articles enumerated in paragraph (a)(7), and classified hardware. As with the revision of other categories, USML Category X will not control generic, non-specific parts, components, accessories, and attachments that are in any way specifically designed or modified for a defense article, regardless of their significance to maintaining a military advantage for the United States. These items are subject to the new 600 series controls in Category 1 of the CCL,

published separately by the Department of Commerce.

A new ''(x) paragraph'' has been added to USML Category X, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category X and are described in the purchase documentation submitted with the application.

This revision of USML Category X was first published as a proposed rule (RIN 1400–AD16) on June 7, 2012, for public comment (*see* 77 FR 33698). The comment period ended July 23, 2012. The public comments were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and recommendations follows.

In response to one commenting party's concern that the paragraph controlling goggles, etc., was written in a manner that would control commercial articles, the Department revised the text to better describe the articles meriting control on the USML.

Two commenting parties expressed concern that the control for developmental articles would capture articles solely on the basis of being developed via funding by the Department of Defense, even though they were being developed for commercial applications. The Department revised that paragraph to make clear that, among other things, it does not capture articles identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

One commenting party recommended that generic, non-specific parts, components, accessories, and attachments for articles covered in this category not be controlled on the USML. Paragraph (d), which covers parts, components, assemblies, accessories, attachments, and associated equipment for this category, is limited in scope to include only ceramic or composite body armor plates, laser protective lenses and other materials for the articles enumerated in paragraph (a)(7), and classified hardware. The Department believes the rule is consistent with the commenting party's recommendation.

**Revision of USML Category XVI**

This final rule removes most of the articles formerly enumerated in USML Category XVI (nuclear weapons related articles). The provisions of 22 CFR 120–130 do not apply to the articles, technical data, or services formerly described in USML Category XVI to the extent that exports of such articles, technical data, or services are under the export control of the Department of Energy or the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended, or are pursuant to a government transfer authorized pursuant to these Acts.

USML Category XVI will continue to control modeling or simulation tools that model or simulate the environments generated by nuclear detonations or the effects of these environments on systems, subsystems, components, structures, or humans, and technical data and defense services directly related to those defense articles. Nuclear radiation detection and measurement devices formerly in paragraph (c) are subject to the EAR under already existing ECCN 1A004.c.2 or 2A291.e.

A new ''(x) paragraph'' has been added to USML Category XVI, allowing ITAR licensing for commodities, software, and technical data subject to the EAR provided those commodities, software, and technical data are to be used in or with defense articles controlled in USML Category XVI and are described in the purchase documentation submitted with the application.

This revision of USML Category XVI was first published as a proposed rule (RIN 1400–AD18) on January 30, 2013, for public comment (*see* 78 FR 6269). The comment period ended March 18, 2013. The public comments were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and recommendations follows.

One commenting party expressed concern that not controlling on the USML parts and components ''necessary for the [nuclear] weapon to be secured, made safe, survive to target, and detonate as planned'' will result in these articles becoming vulnerable to counterfeiting, sabotage, and compromise. The Department of Energy has always maintained and will retain control of nuclear weapon-related articles, so this revision of USML Category XVI does not represent a loosening of controls.

One commenting party inquired whether an accessory for a modeling or simulation tool controlled in paragraph (b) is USML-controlled. The Department added a paragraph to the category to control parts, components, accessories, attachments, and associated equipment, to correct for an unintentional omission. This paragraph would control accessories for articles controlled in paragraph (b).

One commenting party recommended including a note that USML Category XVI does not control modeling or simulation tools that are controlled by the Department of Energy pursuant to the Atomic Energy Act. The Department did not accept this recommendation because ITAR § 123.20 explicitly states that the ITAR does not apply to nuclear weapon-related articles to the extent that such articles are under the control of the Department of Energy or the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act, as amended.

In response to one commenting party's inquiry, the Department confirms that hardware and software are within the scope of USML Category XVI.

One commenting party requested information on the export licensing procedure for items formerly listed in USML Category XVI but now clarified as being under the jurisdiction of the Department of Energy. The Department refers the commenting party to the Department of Energy's National Nuclear Security Administration for its policies and procedures.

**Definition for ''Equipment''**

A definition for the term ''equipment'' is added to ITAR § 121.8. The Department proposed this definition for public comment in a proposed rule (RIN 1400–AD25) published on November 28, 2012 (*see* 77 FR 70958). The Department accepted the recommendation of a commenting party to add the newly defined term ''equipment'' to the definition of ''system,'' and amended ITAR § 121.8(g) accordingly. In addition, it made editorial changes to the other paragraphs in that section.

**Other Technical Changes Included in This Rule**

ITAR § 121.5, which provided clarification of paragraph (c) of USML Category IV, is removed. Articles formerly listed therein are now identified in a note to paragraph (c) or are enumerated in paragraph (h) of USML Category IV.

ITAR § 121.11, which listed items not covered in paragraph (a) of USML Category IV, is removed.

ITAR § 123.20 is revised to replace certain undefined terms with terms defined and in normal use in the ITAR, and to provide citation of Department of Commerce authorities regarding the export of nuclear related items. ITAR § 124(c)(5) is revised to remove

subparagraphs (iii), (ix), and (xi), in accordance with the revision of USML Category XVI. And ITAR § 125.1(e) is revised to refer to ITAR § 123.20 for the export of technical data related to articles in USML Categories VI(e), XVI, and XX(b)(1).

**Adoption of Proposed Rules and Other Changes**

Having reviewed and evaluated the comments and recommended changes for the USML Category IV, USML Category V, USML Category IX, USML Category X, and USML Category XVI proposed rules, as well as the proposed rule that included the definition of ''equipment,'' the Department determined that it will, and hereby does, adopt them, with changes noted and other technical corrections, and promulgates them in final form under this rule.

**Regulatory Analysis and Notices**

*Administrative Procedure Act*

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department published this rule as separate proposed rules identified as 1400–AD02, 1400–AD15, 1400–AD16, 1400–AD18, 1400–AD19, and 1400–AD25, each with a 45- or 60-day provision for public comment and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function.

*Regulatory Flexibility Act*

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

*Unfunded Mandates Reform Act of 1995*

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

*Small Business Regulatory Enforcement Fairness Act of 1996*

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (the ''Act''), a ''major'' rule is a rule that the Administrator of the OMB Office of Information and Regulatory Affairs finds has resulted or is likely to result in (1) an annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

The Department does not believe this rulemaking will have an annual effect on the economy of $100,000,000 or more. Articles that are being removed from coverage in the U.S. Munitions List categories contained in this rule will still require licensing for export, but from the Department of Commerce. While the licensing regime of the Department of Commerce is more flexible than that of the Department of State, it is not expected that the change in jurisdiction of these articles will result in an export difference of $100,000,000 or more.

The Department also does not believe that this rulemaking will result in a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

*Executive Orders 12372 and 13132*

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

*Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget (OMB).

*Executive Order 12988*

The Department of State reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*Executive Order 13175*

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

*Paperwork Reduction Act*

Following is a listing of approved collections that will be affected by revision of the U.S. Munitions List (USML) and the Commerce Control List pursuant to the President's Export Control Reform (ECR) initiative. This final rule continues the implementation of ECR. Other final rules will follow. The list of collections and the description of the manner in which they will be affected pertains to revision of the USML in its entirety, not only to the categories published in this rule:

(1) Statement of Registration, DS–2032, OMB No. 1405–0002. The Department estimates that between 3,000 and 5,000 of currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of between 6,000 and 10,000 hours annually, based on a revised time burden of two hours to complete a Statement of Registration.

(2) Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, DSP–5, OMB No. 1405–0003. The Department estimates that there will be 35,000 fewer DSP–5 submissions annually following full revision of the USML. This would result in a burden reduction of 35,000 hours annually. In addition, the DSP–5 will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be exported.

(3) Application/License for Temporary Import of Unclassified Defense Articles, DSP–61, OMB No. 1405–0013. The Department estimates that there will be 200 fewer DSP–61 submissions annually following full revision of the USML. This would result in a burden reduction of 100 hours annually. In addition, the DSP–61 will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be temporarily imported.

(4) Application/License for Temporary Export of Unclassified Defense Articles, DSP–73, OMB No. 1405–0023. The Department estimates that there will be 800 fewer DSP–73 submissions annually following full revision of the USML. This would result in a burden reduction of 800 hours annually. In addition, the DSP–73 will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be temporarily exported.

(5) Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, DSP–6, –62, –74, –119, OMB No. 1405–0092. The Department estimates that there will be 2,000 fewer amendment submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually. In addition, the amendment forms will allow respondents to select USML Category XIX, a newly-established category, as a description of the articles that are the subject of the amendment request.

(6) Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, DSP–5, OMB No. 1405–0093. The Department estimates that there will be 1,000 fewer agreement submissions annually following full revision of the USML. This would result in a burden reduction of 2,000 hours annually. In addition, the DSP–5, the form used for the purposes of electronically submitting agreements, will allow respondents to select USML Category XIX, a newly-established category, as a description of articles to be exported.

(7) Maintenance of Records by Registrants, OMB No. 1405–0111. The requirement to actively maintain records pursuant to provisions of the International Traffic in Arms Regulations (ITAR) will decline commensurate with the drop in the number of persons who will be required to register with the Department pursuant to the ITAR. As stated above, the Department estimates that between 3,000 and 5,000 of the currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of between 60,000 and 100,000 hours annually. However, the ITAR does provide for the maintenance of records for a period of five years. Therefore, persons newly relieved of the requirement to register with the Department may still be required to maintain records.

(8) Export Declaration of Defense Technical Data or Services, DS–4071, OMB No. 1405–0157. The Department estimates that there will be 2,000 fewer declaration submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually.

**List of Subjects**

*22 CFR 121 and 125*

Arms and munitions, Classified information, Exports.

*22 CFR 123*

Arms and munitions, Exports, Reporting and recordkeeping requirements.

*22 CFR 124*

Arms and munitions, Exports, Technical assistance.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 121, 123, 124 and 125 are amended as follows:

## PART 121—THE UNITED STATES MUNITIONS LIST

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 121.1 is amended by revising U.S. Munitions List Categories IV, V, IX, X, and XVI to read as follows:

### § 121.1 General. The United States Munitions List.

* * * * *

**Category IV—Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines**

*(a) Rockets, space launch vehicles (SLVs), missiles, bombs, torpedoes, depth charges, mines, and grenades, as follows:

(1) Rockets, SLVs, and missiles capable of delivering at least a 500-kg payload to a range of at least 300 km (MT);

(2) Rockets, SLVs, and missiles capable of delivering less than a 500-kg payload to a range of at least 300 km (MT);

(3) Man-portable air defense systems (MANPADS);

(4) Anti-tank missiles and rockets;

(5) Rockets, SLVs, and missiles not meeting the criteria of paragraphs (a)(1) through (a)(4) of this category;

(6) Bombs;

(7) Torpedoes;

(8) Depth charges;

(9) Anti-personnel, anti-vehicle, or anti-armor land mines (*e.g.,* area denial devices);

(10) Anti-helicopter mines;

(11) Naval mines; or

(12) Fragmentation and high explosive hand grenades.

**Note 1 to paragraph (a):** ''Range'' is the maximum distance that the specified rocket system is capable of traveling in the mode of stable flight as measured by the projection of its trajectory over the surface of the Earth. The maximum capability based on the design characteristics of the system, when fully loaded with fuel or propellant, will be taken into consideration in determining range. The range for rocket systems will be determined independently of any external factors such as operational restrictions, limitations imposed by telemetry, data links, or other external constraints. For rocket systems, the range will be determined using the trajectory that maximizes range, assuming International Civil Aviation Organization (ICAO) standard atmosphere with zero wind.

**Note 2 to paragraph (a):** ''Payload'' is the total mass that can be carried or delivered by the specified rocket, SLV, or missile that is not used to maintain flight.

**Note 3 to paragraph (a):** This paragraph does not control model and high power rockets (as defined in National Fire Protection Association Code 1122) and kits thereof made of paper, wood, fiberglass, or plastic containing no substantial metal parts and designed to be flown with hobby rocket motors that are certified for consumer use. Such rockets must not contain active controls (*e.g.,* RF, GPS).

**Note 4 to paragraph (a):** ''Mine'' means a munition placed under, on, or near the ground or other surface area and designed to be exploded by the presence, proximity, or contact of a person or vehicle.

*(b) Launchers for rockets, SLVs, and missiles, as follows:

(1) Fixed launch sites and mobile launcher mechanisms for any system enumerated in paragraphs (a)(1) and (a)(2) of this category (*e.g.,* launch tables, TOW missile, MANPADS) (MT); or

(2) Fixed launch sites and mobile launcher mechanisms for any system enumerated in paragraphs (a)(3) through (a)(5) of this category (*e.g.,* launch tables, TOW missile, MANPADS).

**Note 1 to paragraph (b):** For controls on non-SLV launcher mechanisms for use on aircraft, *see* USML Category VIII(h).

**Note 2 to paragraph (b):** For controls on launcher mechanisms that are integrated onto a vessel or ground vehicle, *see* USML Categories VI and VII, respectively.

**Note 3 to paragraph (b):** This paragraph does not control parts and accessories (*e.g.,* igniters, launch stands) specially designed for consumer use with model and high power rockets (as defined in National Fire Protection Association Code 1122) and kits thereof made of paper, wood, fiberglass, or plastic containing no substantial metal parts and designed to be flown with hobby rocket motors that are certified for consumer use.

(c) Apparatus and devices specially designed for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of the articles enumerated in paragraphs (a) and (b) of this category (MT for those systems enumerated in paragraphs (a)(1), (a)(2), and (b)(1) of this category).

**Note 1 to paragraph (c):** This paragraph includes specialized handling equipment (transporters, cranes, and lifts) specially designed to handle articles enumerated in paragraphs (a) and (b) of this category for preparation and launch from fixed and mobile sites. The equipment in this paragraph also includes specially designed robots, robot controllers, and robot end-effectors, and liquid propellant tanks specially designed for the storage or handling of the propellants controlled in USML Category V, CCL ECCNs 1C011, 1C111, and 1C608, or other liquid propellants used in the systems enumerated in paragraphs (a)(1), (a)(2), or (a)(5) of this category.

**Note 2 to paragraph (c):** Aircraft Missile Protection Systems (AMPS) are controlled in USML Category XI.

*(d) Rocket, SLV, and missile power plants, as follows:

(1) Except as enumerated in paragraph (d)(2) or (d)(3) of this category, individual rocket stages for the articles enumerated in paragraph (a)(1), (a)(2), or (a)(5) of this category (MT for those stages usable in systems enumerated in paragraphs (a)(1) and (a)(2) of this category);

(2) Solid propellant rocket motors, hybrid or gel rocket motors, or liquid propellant rocket engines having a total impulse capacity equal to or greater than $1.1 \times 10^6$ N·s (MT);

(3) Solid propellant rocket motors, hybrid or gel rocket motors, or liquid propellant rocket engines having a total impulse capacity equal to or greater than $8.41 \times 10^5$ N·s, but less than $1.1 \times 10^6$ N·s (MT);

(4) Combined cycle, pulsejet, ramjet, or scramjet engines (MT);

(5) Air-breathing engines that operate above Mach 4 not enumerated in paragraph (d)(4) of this category;

(6) Pressure gain combustion-based propulsion systems not enumerated in paragraphs (d)(4) and (d)(5) of this category; or

(7) Rocket, SLV, and missile engines and motors, not otherwise enumerated in paragraphs (d)(1) through (d)(6) of this category or USML Category XIX.

**Note to paragraph (d):** This paragraph does not control model and high power rocket motors, containing no more than 5 pounds of propellant, that are certified for U.S. consumer use as described in National Fire Protection Association Code 1125.

(e) [Reserved]

(f) [Reserved]

*(g) Non-nuclear warheads for rockets, bombs, and missiles (*e.g.,* explosive, kinetic, EMP, thermobaric, shape charge, and fuel air explosive (FAE)).

(h) Systems, subsystems, parts, components, accessories, attachments, or associated equipment, as follows:

(1) Flight control and guidance systems (including guidance sets) specially designed for articles enumerated in paragraph (a) of this category (MT for those articles enumerated in paragraphs (a)(1) and (a)(2) of this category);

**Note to paragraph (h)(1):** A guidance set integrates the process of measuring and computing a vehicle's position and velocity (*i.e.,* navigation) with that of computing and sending commands to the vehicle's flight control systems to correct the trajectory.

(2) Seeker systems specially designed for articles enumerated in paragraph (a) of this category (*e.g.,* radiofrequency, infrared) (MT for articles enumerated in paragraphs (a)(1) and (a)(2) of this category);

(3) Kinetic kill vehicles and specially designed parts and components therefor;

(4) Missile or rocket thrust vector control systems (MT for those thrust vector control systems usable in articles enumerated in paragraph (a)(1) of this category);

(5) MANPADS grip stocks and specially designed parts and components therefor;

(6) Rocket or missile nozzles and nozzle throats, and specially designed parts and components therefor (MT for those nozzles and nozzle throats usable in systems enumerated in paragraphs (a)(1) and (a)(2) of this category);

(7) Rocket or missile nose tips, nose fairings, or aerospikes, and specially designed parts and components therefor (MT for those articles enumerated in paragraphs (a)(1) and (a)(2) of this category);

(8) Re-entry vehicle or warhead heat shields (MT for those re-entry vehicles and heat shields usable in systems enumerated in paragraph (a)(1) of this category);

(9) Missile and rocket safing, arming, fuzing, and firing (SAFF) components (to include target detection and proximity sensing devices), and specially designed parts therefor (MT for those SAFF components usable in systems enumerated in paragraph (a)(1) of this category);

(10) Self-destruct systems specially designed for articles enumerated in paragraph (a) of this category (MT for those articles enumerated in paragraphs (a)(1) and (a)(2) of this category);

(11) Separation mechanisms, staging mechanisms, and interstages useable for articles enumerated in paragraph (a) of this category, and specially designed parts and components therefor (MT for those separation mechanisms, staging mechanisms, and interstages usable in systems enumerated in paragraph (a)(1) of this category);

(12) Post-boost vehicles (PBV) (MT);

(13) Engine or motor mounts specially designed for articles enumerated in paragraphs (a) and (b) of this category (MT for those articles enumerated in paragraphs (a)(1), (a)(2), and (b)(1) of this category);

(14) Combustion chambers specially designed for articles enumerated in paragraphs (a) and (d) of this category and specially designed parts and components therefor (MT for those articles enumerated in paragraphs (a)(1), (a)(2), (b)(1), and (d)(1) through (d)(5) of this category);

(15) Injectors specially designed for articles controlled in this category (MT for those injectors specially designed which are usable in systems enumerated in paragraph (a)(1) of this category);

(16) Solid rocket motor or liquid engine igniters;

(17) Re-entry vehicles and specially designed parts and components therefor not elsewhere specified in this category (MT);

**Note to paragraph (h)(17):** This paragraph does not control spacecraft. For controls on spacecraft, *see* USML Category XV and, if not described therein, then CCL ECCN 9A515.

(18) Specially designed parts and components for articles controlled in

paragraph (g) not elsewhere specified in this category;

(19) Penetration aids and specially designed parts and components therefor (*e.g.,* physical or electronic countermeasure suites, re-entry vehicle replicas or decoys, or submunitions);

(20) Rocket motor cases and specially designed parts and components therefor (*e.g.,* flanges, flange seals, end domes) (MT for those rocket motor cases usable in systems enumerated in paragraphs (a)(1) and (a)(2) of this category and for specially designed parts and components for hybrid rocket motors enumerated in paragraphs (d)(2) and (d)(3) of this category);

(21) Solid rocket motor liners and rocket motor insulation (MT for those solid rocket motor liners usable in systems enumerated in paragraph (a)(1) of this category or specially designed for systems enumerated in paragraph (a)(2) of this category; and rocket motor insulation usable in systems enumerated in paragraphs (a)(1) and (a)(2) of this category);

(22) Radomes, sensor windows, and antenna windows specially designed for articles enumerated in paragraph (a) of this category (MT for those radomes usable in systems enumerated in paragraph (a)(1) of this category and for any radomes, sensor windows, or antenna windows manufactured as composite structures or laminates specially designed for use in the systems and components enumerated in paragraph (a)(1), (a)(2), (d)(1), (h)(8), (h)(9), (h)(17), or (h)(25) of this category);

(23) Rocket or missile payload fairings;

(24) Rocket or missile launch canisters (MT for those rocket or missile launch canisters designed or modified for systems enumerated in paragraphs (a)(1) and (a)(2) of this category);

(25) Fuzes specially designed for articles enumerated in paragraph (a) of this category (*e.g.,* proximity, contact, electronic, dispenser proximity, airburst, variable time delay, or multi-option) (MT for those fuzes usable in systems enumerated in paragraph (a)(1) of this category);

(26) Rocket or missile liquid propellant tanks (MT for those rocket or missile liquid propellant tanks usable in systems enumerated in paragraph (a)(1) of this category);

(27) Rocket or missile altimeters specially designed for use in articles enumerated in paragraph (a)(1) of this category (MT);

(28) Pneumatic, hydraulic, mechanical, electro-optical, or electromechanical flight control systems (including fly-by-wire systems) and attitude control equipment specially designed for use in the rockets or missiles enumerated in paragraph (a)(1) of this category (MT for these systems which have been designed or modified for those enumerated in paragraph (a)(1) of this category);

(29) Umbilical and interstage electrical connectors specially designed for use in the rockets or missiles enumerated in paragraph (a)(1) or (a)(2) of this category (MT); or

**Note to paragraph (h)(29):** This paragraph also includes electrical connectors installed between the systems specified in paragraph (a)(1) or (a)(2) of this category and their payload.

*(30) Any part, component, accessory, attachment, equipment, or system that (MT for those articles designated as such):

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information.

**Note to paragraph (h)(30):** ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

(i) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category and classified technical data directly related to items controlled in ECCNs 0A604, 0B604, 0D604, 9A604, 9B604, or 9D604 and defense services using the classified technical data. (*See* § 125.4 of this subchapter for exemptions.) (MT for technical data and defense services related to articles designated as such.)

(j)–(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

**Note to paragraph (x):** Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (*see* § 123.1(b) of this subchapter).

**Note to Category IV:** If a Missile Technology Control Regime Category I item is included in a system, that system will also be considered as a Category I item, except when the incorporated item cannot be separated, removed, or duplicated.

**Category V—Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents**

*(a) Explosives, and mixtures thereof, as follows:

(1) ADNBF (aminodinitrobenzofuroxan or 7-Amino 4,6-dinitrobenzofurazane-1-oxide) (CAS 97096–78–1);

(2) BNCP (cis-bis(5-nitrotetrazolato) tetra amine-cobalt (III) perchlorate) (CAS 117412–28–9);

(3) CL–14 (diaminodinitrobenzofuroxan or 5,7-diamino-4,6-dinitrobenzofurazane-1-oxide) (CAS 117907–74–1);

(4) CL–20 (HNIW or Hexanitrohexaazaisowurtzitane) (CAS 135285–90–4); clathrates of CL–20 (MT for CL–20);

(5) CP (2-(5-cyanotetrazolato) penta aminecobalt (III) perchlorate) (CAS 70247–32–4);

(6) DADE (1,1-diamino-2,2-dinitroethylene, FOX–7);

(7) DATB (Diaminotrinitrobenzene) (CAS 1630–08–6);

(8) DDFP (1,4-dinitrodifurazanopiperazine);

(9) DDPO (2,6-diamino-3,5-dinitropyrazine-1-oxide, PZO) (CAS 194486–77–6);

(10) DIPAM (3,3′-Diamino-2,2′,4,4′,6,6′-hexanitrobiphenyl or dipicramide) (CAS 17215–44–0);

(11) DNAN (2,4-Dinitroanisole) (CAS 119–27–7);

(12) DNGU (DINGU or dinitroglycoluril) (CAS 55510–04–8);

(13) Furazans, as follows:

(i) DAAOF (DAAF, DAAFox, or diaminoazoxyfurazan);

(ii) DAAzF (diaminoazofurazan) (CAS 78644–90–3);

(iii) ANF (Furazanamine, 4-nitro- or 3-Amino-4-nitrofurazan; or 4-Nitro-1,2,5-oxadiazol-3-amine; or 4-Nitro-3-furazanamine; CAS 66328–69–6); or

(iv) ANAzF (Aminonitroazofurazan or 1,2,5-Oxadiazol-3-amine, 4-[2-(4-nitro-1,2,5-oxadiazol-3-yl) diazenyl]; or 1,2,5-Oxadiazol-3-amine, 4-[(4-nitro-1,2,5-oxadiazol-3-yl)azo]- (9CI); or Furazanamine, 4-[(nitrofurananyl)azo]-; or 4-[(4-Nitro-1,2,5-oxadiazol-3-yl)azo]-1,2,5-oxadiazol-3-amine) (CAS 155438–11–2);

(14) GUDN (Guanylurea dinitramide) FOX–12 (CAS 217464–38–5);

(15) HMX and derivatives, as follows:

(i) HMX (Cyclotetramethylenetetranitramine; octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazine; 1,3,5,7-tetranitro-1,3,5,7-tetraza-cyclooctane; octogen, octogene) (CAS 2691–41–0) (MT);

(ii) Difluoroaminated analogs of HMX; or

(iii) K–55 (2,4,6,8-tetranitro-2,4,6,8-tetraazabicyclo [3,3,0]-octanone-3, tetranitrosemiglycouril, or keto-bicyclic HMX) (CAS 130256–72–3);

(16) HNAD (hexanitroadamantane) (CAS 143850–71–9);

(17) HNS (hexanitrostilbene) (CAS 20062–22–0);

(18) Imidazoles, as follows:

(i) BNNII (Octohydro-2,5-bis(nitroimino) imidazo [4,5-d]imidazole);

(ii) DNI (2,4-dinitroimidazole) (CAS 5213–49–0);

(iii) FDIA (1-fluoro-2,4-dinitroimidazole);

(iv) NTDNIA (N-(2-nitrotriazolo)-2,4-dinitro-imidazole); or

(v) PTIA (1-picryl-2,4,5-trinitroimidazole);

(19) NTNMH (1-(2-nitrotriazolo)-2-dinitromethylene hydrazine);

(20) NTO (ONTA or 3-nitro-1,2,4-triazol-5-one) (CAS 932–64–9);

(21) Polynitrocubanes with more than four nitro groups;

(22) PYX (2,6-Bis(picrylamino)-3,5-dinitropyridine) (CAS 38082–89–2);

(23) RDX and derivatives, as follows:

(i) RDX (cyclotrimethylenetrinitramine), cyclonite, T4, hexahydro-1,3,5-trinitro-1,3,5-triazine, 1,3,5-trinitro-1,3,5-triaza-cyclohexane, hexogen, or hexogene) (CAS 121–82–4) (MT);

(ii) Keto-RDX (K–6 or 2,4,6-trinitro-2,4,6-triazacyclohexanone) (CAS 115029–35–1); or

(iii) Difluoraminated derivative of RDX; 1,3-Dinitro-5,5-bis(difluoramino)1,3-diazahexane (CAS No. 193021–34–0);

(24) TAGN (Triaminoguanidinenitrate) (CAS 4000–16–2);

(25) TATB (Triaminotrinitrobenzene) (CAS 3058–38–6);

(26) TEDDZ (3,3,7,7-tetrakis(difluoroamine) octahydro-1,5-dinitro-1,5-diazocine;

(27) Tetrazines, as follows:

(i) BTAT (Bis(2,2,2-trinitroethyl)-3,6-diaminotetrazine); or

(ii) LAX–112 (3,6-diamino-1,2,4,5-tetrazine-1,4-dioxide);

(28) Tetrazoles, as follows:

(i) NTAT (nitrotriazolaminotetrazole); or

(ii) NTNT (1-N-(2-nitrotriazolo)-4-nitrotetrazole);

(29) Tetryl (trinitrophenylmethylnitramine) (CAS 479–45–8);

(30) TEX (4,10-Dinitro-2,6,8,12-tetraoxa-4,10-diazaisowurtzitane);

(31) TNAD (1,4,5,8-tetranitro-1,4,5,8-tetraazadecalin) (CAS 135877–16–6);

(32) TNAZ (1,3,3-trinitroazetidine) (CAS 97645–24–4);

(33) TNGU (SORGUYL or tetranitroglycoluril) (CAS 55510–03–7);

(34) TNP (1,4,5,8-tetranitro-pyridazino [4,5-d] pyridazine) (CAS 229176–04–9);

(35) Triazines, as follows:

(i) DNAM (2-oxy-4,6-dinitroamino-s-triazine) (CAS 19899–80–0); or

(ii) NNHT (2-nitroimino-5-nitro-hexahydro-1,3,5 triazine) (CAS 130400–13–4);

(36) Triazoles, as follows:

(i) 5-azido-2-nitrotriazole;

(ii) ADHTDN (4-amino-3,5-dihydrazino-1,2,4-triazole dinitramide) (CAS 1614–08–0);

(iii) ADNT (1-amino-3,5-dinitro-1,2,4-triazole);

(iv) BDNTA (Bis(dinitrotriazole)amine);

(v) DBT (3,3′-dinitro-5,5-bi-1,2,4-triazole) (CAS 30003–46–4);

(vi) DNBT (dinitrobistriazole) (CAS 70890–46–9);

(vii) NTDNT (1–N-(2-nitrotriazolo) 3,5-dinitro-triazole);

(viii) PDNT (1-picryl-3,5-dinitrotriazole); or

(ix) TACOT (tetranitrobenzotriazolobenzotriazole) (CAS 25243–36–1);

(37) Energetic ionic materials melting between 70 and °degrees C and with detonation velocity exceeding 6800 m/s or detonation pressure exceeding 18 GPa (180 kbar); or

(38) Explosives, not otherwise enumerated in this paragraph or on the CCL in ECCN 1C608, with a detonation velocity exceeding 8700 m/s at maximum density or a detonation pressure exceeding 34 Gpa (340 kbar).

*(b) Propellants, as follows (MT for composite and composite modified double-base propellants):

(1) Any solid propellant with a theoretical specific impulse (*see* paragraph (k)(4) of this category) greater than:

(i) 240 seconds for non-metallized, non-halogenated propellant;

(ii) 250 seconds for non-metallized, halogenated propellant; or

(iii) 260 seconds for metallized propellant;

(2) Propellants having a force constant of more than 1,200 kJ/Kg;

(3) Propellants that can sustain a steady-state burning rate more than 38 mm/s under standard conditions (as measured in the form of an inhibited single strand) of 6.89 Mpa (68.9 bar) pressure and 294K (21°C);

(4) Elastomer-modified cast double-based propellants with extensibility at maximum stress greater than 5% at 233 K (−40°C); or

(5) Other composite and composite modified double-base propellants.

(c) Pyrotechnics, fuels and related substances, and mixtures thereof, as follows:

(1) Alane (aluminum hydride) (CAS 7784–21–6);

(2) Carboranes; decaborane (CAS 17702–41–9); pentaborane and derivatives thereof (MT);

(3) Liquid high energy density fuels, as follows (MT):

(i) Mixed fuels that incorporate both solid and liquid fuels, such as boron slurry, having a mass-based energy density of 40 MJ/kg or greater; or

(ii) Other high energy density fuels and fuel additives (*e.g.,* cubane, ionic solutions, JP–7, JP–10) having a volume-based energy density of 37.5 GJ per cubic meter or greater, measured at 20°C and one atmosphere (101.325 kPa) pressure;

**Note to paragraph (c)(3)(ii):** JP–4, JP–8, fossil refined fuels or biofuels, or fuels for engines certified for use in civil aviation are not included.

(4) Metal fuels, and fuel or pyrotechnic mixtures in particle form whether spherical, atomized, spheroidal, flaked, or ground, manufactured from material consisting of 99% or more of any of the following:

(i) Metals, and mixtures thereof, as follows:

(A) Beryllium (CAS 7440–41–7) in particle sizes of less than 60 micrometers (MT); or

(B) Iron powder (CAS 7439–89–6) with particle size of 3 micrometers or less produced by reduction of iron oxide with hydrogen;

(ii) Fuel mixtures or pyrotechnic mixtures, which contain any of the following:

(A) Boron (CAS 7440–42–8) or boron carbide (CAS 12069–32–8) fuels of 85% purity or higher and particle sizes of less than 60 micrometers; or

(B) Zirconium (CAS 7440–67–7), magnesium (CAS 7439–95–4), or alloys of these in particle sizes of less than 60 micrometers;

(iii) Explosives and fuels containing the metals or alloys listed in paragraphs (c)(4)(i) and (c)(4)(ii) of this category whether or not the metals or alloys are encapsulated in aluminum, magnesium, zirconium, or beryllium;

(5) Fuel, pyrotechnic, or energetic mixtures having any nanosized aluminum, beryllium, boron, zirconium, magnesium, or titanium, as follows:

(i) Having particle size less than 200 nm in any direction; and

(ii) Having 60% or higher purity;

(6) Pyrotechnic and pyrophoric materials, as follows:

(i) Pyrotechnic or pyrophoric materials specifically formulated to

enhance or control the production of radiated energy in any part of the IR spectrum; or

(ii) Mixtures of magnesium, polytetrafluoroethylene and the copolymer vinylidene difluoride and hexafluoropropylene (MT);

(7) Titanium subhydride (TiHn) of stoichiometry equivalent to n = 0.65–1.68; or

(8) Hydrocarbon fuels specially formulated for use in flame throwers or incendiary munitions containing metal stearates (*e.g.,* octal) or palmitates, and M1, M2, and M3 thickeners.

(d) Oxidizers, as follows:

(1) ADN (ammonium dinitramide or SR–12) (CAS 140456–78–6) (MT);

(2) AP (ammonium perchlorate) (CAS 7790–98–9) (MT);

(3) BDNPN (bis(2,2-dinitropropyl)nitrate) (CAS 28464–24–6);

(4) DNAD (1,3-dinitro-1,3-diazetidine) (CAS 78246–06–7);

(5) HAN (Hydroxylammonium nitrate) (CAS 13465–08–2);

(6) HAP (hydroxylammonium perchlorate) (CAS 15588–62–2);

(7) HNF (Hydrazinium nitroformate) (CAS 20773–28–8) (MT);

(8) Hydrazine nitrate (CAS 37836–27–4) (MT);

(9) Hydrazine perchlorate (CAS 27978–54–7) (MT);

(10) Inhibited red fuming nitric acid (IRFNA) (CAS 8007–58–7) and liquid oxidizers comprised of or containing IRFNA or oxygen difluoride (MT for liquid oxidizers comprised of IRFNA); or

(11) Perchlorates, chlorates, and chromates composited with powdered metal or other high energy fuel components controlled under this category (MT).

*(e) Binders, and mixtures thereof, as follows:

(1) AMMO (azidomethylmethyloxetane and its polymers) (CAS 90683–29–7);

(2) BAMO (bis(azidomethyl)oxetane and its polymers) (CAS 17607–20–4);

(3) BTTN (butanetriol trinitrate) (CAS 6659–60–5) (MT);

(4) FAMAO (3-difluoroaminomethyl-3-azidomethyloxetane) and its polymers;

(5) FEFO (bis(2-fluoro-2,2-dinitroethyl)formal) (CAS 17003–79–1);

(6) GAP (glycidyl azide polymer) (CAS 143178–24–9) and its derivatives (MT for GAP);

(7) HTPB (hydroxyl-terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30 °C of less than 47 poise (CAS 69102–90–5) (MT);

(8) 4,5 diazidomethyl-2-methyl-1,2,3-triazole (iso-DAMTR) (MT);

(9) NENAS (nitratoethylnitramine compounds), as follows:

(i) N-Methyl 2-nitratoethylnitramine (Methyl-NENA) (CAS 17096–47–8) (MT);

(ii) N-Ethyl 2-nitratoethylnitramine (Ethyl-NENA) (CAS 85068–73–1) (MT);

(iii) N-Propyl 2-nitratoethylnitramine (CAS 82486–83–7);

(iv) N-Butyl-2-nitratoethylnitramine (BuNENA) (CAS 82486–82–6); or

(v) N-Pentyl 2-nitratoethylnitramine (CAS 85954–06–9);

(10) Poly-NIMMO (poly nitratomethylmethyoxetane, poly-NMMO, (poly[3-nitratomethyl-3-methyl oxetane]) (CAS 84051–81–0);

(11) PNO (Poly(3-nitratooxetane));

(12) TVOPA 1,2,3-Tris [1,2-bis(difluoroamino)ethoxy]propane; tris vinoxy propane adduct (CAS 53159–39–0);

(13) Polynitrorthocarbonates;

(14) FPF–1 (poly-2,2,3,3,4,4-hexafluoro pentane-1,5-diolformal) (CAS 376–90–9);

(15) FPF–3 (poly-2,4,4,5,5,6,6-heptafluoro-2-trifluoromethyl-3-oxaheptane-1,7-diolformal);

(16) PGN (Polyglycidyl nitrate or poly(nitratomethyloxirane); poly-GLYN); (CAS 27814–48–8);

(17) N-methyl-p-nitroaniline (MT);

(18) Low (less than 10,000) molecular weight, alcohol-functionalized, poly(epichlorohydrin); poly(epichlorohydrindiol); and triol; or

(19) Dinitropropyl based plasticizers, as follows (MT):

(i) BDNPA (bis (2,2-dinitropropyl) acetal) (CAS 5108–69–0); or

(ii) BDNPF (bis (2,2-dinitropropyl) formal) (CAS 5917–61–3).

(f) Additives, as follows:

(1) Basic copper salicylate (CAS 62320–94–9);

(2) BHEGA (Bis-(2-hydroxyethyl)glycolamide) (CAS 17409–41–5);

(3) BNO (Butadienenitrile oxide);

(4) Ferrocene derivatives, as follows (MT):

(i) Butacene (CAS 125856–62–4);

(ii) Catocene (2,2-Bis-ethylferrocenylpropane) (CAS 37206–42–1);

(iii) Ferrocene carboxylic acids and ferrocene carboxylic acid esters;

(iv) n-butylferrocene (CAS 31904–29–7);

(v) Ethylferrocene (CAS 1273–89–8);

(vi) Propylferrocene;

(vii) Pentylferrocene (CAS 1274–00–6);

(viii) Dicyclopentylferrocene;

(ix) Dicyclohexylferrocene;

(x) Diethylferrocene (CAS 173–97–8);

(xi) Dipropylferrocene;

(xii) Dibutylferrocene (CAS 1274–08–4);

(xiii) Dihexylferrocene (CAS 93894–59–8);

(xiv) Acetylferrocene (CAS 1271–55–2)/1,1′-diacetyl ferrocene (CAS 1273–94–5); or

(xv) Other ferrocene derivatives that do not contain a six carbon aromatic functional group attached to the ferrocene molecule (MT if usable as rocket propellant burning rate modifier);

(5) Lead beta-resorcylate (CAS 20936–32–7);

(6) Lead citrate (CAS 14450–60–3);

(7) Lead-copper chelates of beta-resorcylate or salicylates (CAS 68411–07–4);

(8) Lead maleate (CAS 19136–34–6);

(9) Lead salicylate (CAS 15748–73–9);

(10) Lead stannate (CAS 12036–31–6);

(11) MAPO (tris-1-(2-methyl) aziridinylphosphine oxide) (CAS 57–39–6); BOBBA–8 (bis(2-methyl aziridinyl)-2-(2-hydroxypropanoxy) propylamino phosphine oxide); and other MAPO derivatives (MT for MAPO);

(12) Methyl BAPO (Bis(2-methyl aziridinyl)methylaminophosphine oxide) (CAS 85068–72–0);

(13) 3-Nitraza-1,5-pentane diisocyanate (CAS 7406–61–9);

(14) Organo-metallic coupling agents, as follows:

(i) Neopentyl[diallyl]oxy, tri [dioctyl] phosphatotitanate (CAS 103850–22–2); also known as titanium IV, 2,2[bis 2-propenolato-methyl, butanolato, tris (dioctyl) phosphato] (CAS 110438–25–0), or LICA 12 (CAS 103850–22–2);

(ii) Titanium IV, [(2-propenolato-1) methyl, n-propanolatomethyl] butanolato-1, tris(dioctyl)pyrophosphate, or KR3538; or

(iii) Titanium IV, [(2-propenolato-1)methyl, propanolatomethyl] butanolato-1, tris(dioctyl) phosphate;

(15) PCDE (Polycyanodifluoroaminoethylene oxide);

(16) Certain bonding agents, as follows (MT):

(i) 1,1R,1S-trimesoyl-tris(2-ethylaziridine) (HX–868, BITA) (CAS 7722–73–8); or

(ii) Polyfunctional aziridine amides with isophthalic, trimesic, isocyanuric, or trimethyladipic backbone also having a 2-methyl or 2-ethyl aziridine group;

**Note to paragraph (f)(16)(ii):** Included are (1) 1,1H-Isophthaloyl-bis(2-methylaziridine) (HX–752) (CAS 7652–64–4); (2) 2,4,6-tris(2-ethyl-1-aziridinyl)-1,3,5-triazine (HX–874) (CAS 18924–91–9); and (3) 1,1′-trimethyladipoylbis(2-ethylaziridine) (HX–877) (CAS 71463–62–2).

(17) Superfine iron oxide ($Fe_2O_3$, hematite) with a specific surface area more than 250 $m^2/g$ and an average particle size of 0.003 micrometers or less (CAS 1309–37–1);

(18) TEPAN (HX–879) (tetraethylenepentaamineacrylonitrile) (CAS 68412–45–3); cyanoethylated polyamines and their salts (MT for TEPAN (HX–879));

(19) TEPANOL (HX–878) (tetraethylenepentaamineacrylonitrileglycidol) (CAS 110445–33–5); cyanoethylated polyamines adducted with glycidol and their salts (MT for TEPANOL (HX–878));

(20) TPB (triphenyl bismuth) (CAS 603–33–8) (MT); or

(21) Tris (ethoxyphenyl) bismuth (TEPB) (CAS 90591–48–3).

(g) Precursors, as follows:

(1) BCMO (bischloromethyloxetane) (CAS 142173–26–0);

(2) DADN (1,5-diacetyl-3,7-dinitro-1, 3, 5, 7-tetraazacyclooctane);

(3) Dinitroazetidine-t-butyl salt (CAS 125735–38–8);

(4) CL–20 precursors (any molecule containing hexaazaisowurtzitane) (*e.g.,* HBIW (hexabenzylhexaazaisowurtzitane), TAIW (tetraacetyldibenzylhexa-azaisowurtzitane));

(5) TAT (1, 3, 5, 7-tetraacetyl-1, 3, 5, 7-tetraazacyclooctane) (CAS 41378–98–7);

(6) Tetraazadecalin (CAS 5409–42–7);

(7) 1,3,5-trichlorobenzene (CAS 108–70–3); or

(8) 1,2,4-trihydroxybutane (1,2,4-butanetriol) (CAS 3068–00–6).

*(h) Any explosive, propellant, pyrotechnic, fuel, oxidizer, binder, additive, or precursor that (MT for articles designated as such):

(1) Is classified; or

(2) Is being developed using classified information (*see* § 120.10(a)(2) of this subchapter).

**Note to paragraph (h):** ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

(i) Developmental explosives, propellants, pyrotechnics, fuels, oxidizers, binders, additives, or precursors therefor funded by the Department of Defense via contract or other funding authorization.

**Note 1 to paragraph (i):** This paragraph does not control explosives, propellants, pyrotechnics, fuels, oxidizers, binders, additives, or precursors therefor (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter), or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

**Note 2 to paragraph (i):** Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.

**Note 3 to paragraph (i):** This paragraph is applicable only to those contracts and funding authorizations that are dated January 5, 2015, or later.

(j) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles numerated in paragraphs (a) through (i) of this category (*see* also § 123.20 of this subchapter) (MT for articles designated as such).

(k) The following interpretations explain and amplify the terms used in this category and elsewhere in this subchapter:

(1) USML Category V contains explosives, energetic materials, propellants, and pyrotechnics and specially formulated fuels for aircraft, missile, and naval applications. Explosives are solid, liquid, or gaseous substances or mixtures of substances, which, in their primary, booster, or main charges in warheads, demolition, or other military applications, are required to detonate.

(2) The resulting product of the combination or conversion of any substance controlled by this category into an item not controlled will no longer be controlled by this category provided the controlled item cannot easily be recovered through dissolution, melting, sieving, etc. As an example, beryllium converted to a near net shape using hot isostatic processes will result in an uncontrolled part. A cured thermoset containing beryllium powder is not controlled unless meeting an explosive or propellant control. The mixture of beryllium powder in a cured thermoset shape is not controlled by this category. The mixture of controlled beryllium powder mixed with a typical propellant binder will remain controlled by this category. The addition of dry silica powder to dry beryllium powder will remain controlled.

(3) Paragraph (c)(4)(ii)(A) of this category does not apply to boron and boron carbide enriched with boron-10 (20% or more of total boron-10 content).

(4) Theoretical specific impulse (Isp) is calculated using standard conditions (1000 psi chamber pressure expanded to 14.7 psi) and measured in units of pound-force-seconds per pound-mass (lbf-s/lbm) or simplified to seconds (s). Calculations will be based on shifting equilibrium.

(5) Particle size is the mean particle diameter on a weight basis. Best industrial practices will be used in determining particle size and the controls may not be undermined by addition of larger or smaller sized material to shift the mean diameter.

(l)–(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

**Note to paragraph (x):** Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (*see* § 123.1(b) of this subchapter).

**Note 1 to USML Category V:** To assist the exporter, an item has been categorized by the most common use. Also, where appropriate, references have been provided to the related controlled precursors.

**Note 2 to USML Category V:** Chemical Abstract Service (CAS) registry numbers do not cover all the substances and mixtures controlled by this category. The numbers are provided as examples to assist government agencies in the license review process and exporters when completing their license application and export documentation.

* * * * *

## Category IX—Military Training Equipment

(a) Training equipment, as follows:

(1) Ground, surface, submersible, space, or towed airborne targets that:

(i) Have an infrared, radar, acoustic, magnetic, or thermal signature that mimic a specific defense article, specific other item, or specific person; or

(ii) Are instrumented to provide hit/miss performance information for defense articles controlled in this subchapter;

**Note to paragraph (a)(1):** Target drones are controlled in USML Category VIII(a).

(2) Devices that are mockups of articles enumerated in this subchapter used for maintenance training or disposal training for ordnance enumerated in this subchapter;

**Note to paragraph (a)(2):** This paragraph does not control mockups that do not reveal technical data (*see* ITAR § 120.10 of this subchapter) and do not contain parts, components, accessories, or attachments controlled in this subchapter.

(3) Air combat maneuvering instrumentation and ground stations therefor;

(4) Physiological flight trainers for fighter aircraft or attack helicopters;

(5) Radar trainers specially designed for training on radar controlled by USML Category XI;

(6) Training devices specially designed to be attached to a crew station, mission system, or weapon of an article controlled in this subchapter;

**Note to paragraph (a)(6):** This paragraph includes stimulators that are built-in or add-on devices that cause the actual equipment to act as a trainer.

(7) Anti-submarine warfare trainers;

(8) Missile launch trainers;

(9) Radar target generators;

(10) Infrared scene generators; or

*(11) Any training device that:

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information. ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

**Note to paragraph (a):** Training equipment does not include combat games without item signatures or tactics, techniques, and procedures covered by this subchapter.

(b) Simulators, as follows:

(1) System specific simulators that replicate the operation of an individual crew station, a mission system, or a weapon of an end-item that is controlled in this subchapter;

(2) [Reserved]

(3) [Reserved]

(4) Software and associated databases not elsewhere enumerated in this subchapter that can be used to model or simulate the following:

(i) Trainers enumerated in paragraph (a) of this category;

(ii) Battle management;

(iii) Military test scenarios/models; or

(iv) Effects of weapons enumerated in this subchapter; or

*(5) Simulators that:

(i) Are classified;

(ii) Contain classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Are being developed using classified information.

**Note to paragraph (b)(5):** ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

(c) [Reserved]

(d) [Reserved]

(e) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) and (b) of this category.

**Note to paragraph (e):** This paragraph includes defense services (*see* § 120.9 of this subchapter) directly related to the software and associated databases enumerated in paragraph (b)(4) of this category even if no defense articles are used or transferred.

(f)–(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

**Note to paragraph (x):** Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (*see* § 123.1(b) of this subchapter).

**Note to USML Category IX:** Parts, components, accessories, or attachments of a simulator in this category that are common to the simulated system or simulated end-item are controlled under the same USML category or CCL ECCN as the parts, components, accessories, and attachments of the simulated system or simulated end-item.

## Category X—Personal Protective Equipment

(a) Personal protective equipment, as follows:

(1) Body armor providing a protection level equal to or greater than NIJ Type IV;

**Note 1 to paragraph (a)(1):** For body armor providing a level of protection of Type I, Type II, Type IIA, Type IIIA, or Type III, *see* ECCNs 1A005 and 1A613.

**Note 2 to paragraph (a)(1):** *See* USML Category XIII(e) for controls on related materials.

(2) Personal protective clothing, equipment, or face paints specially designed to protect against or reduce detection by radar, IR, or other sensors at wavelengths greater than 900 nanometers;

**Note to paragraph (a)(2):** *See* USML Category XIII(j) for controls on related materials.

(3) [Reserved]

(4) [Reserved]

(5) Integrated helmets, not specified in USML Category VIII(h)(15) or USML Category XII, incorporating optical sights or slewing devices, which include the ability to aim, launch, track, or manage munitions;

(6) Helmets and helmet shells providing a protection level equal to or greater than NIJ Type IV;

(7) Goggles, spectacles, visors, vision blocks, canopies, or filters for optical sights or viewers, employing other than common broadband absorptive dyes or UV inhibitors as a means of protection (*e.g.,* narrow band filters/dyes or broadband limiters/coatings with high visible transparency), having an optical density greater than 3, and that protect against:

(i) Multiple visible (in-band) laser wavelengths;

(ii) Thermal flashes associated with nuclear detonations; or

(iii) Near infrared or ultraviolet (out-of-band) laser wavelengths; or

**Note 1 to paragraph (a)(7):** *See* paragraphs (d)(2) and (3) of this category for controls on related parts, components, and materials.

**Note 2 to paragraph (a)(7):** *See* USML Category XII for sensor protection equipment.

(8) Developmental personal protective equipment and specially designed parts, components, accessories, and attachments therefor, developed for the U.S. Department of Defense via contract or other funding authorization.

**Note 1 to paragraph (a)(8):** This paragraph does not control personal protective equipment and specially designed parts, components, accessories, and attachments (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter), or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

**Note 2 to paragraph (a)(8):** Note 1 does not apply to defense articles enumerated on the USML, whether in production or development.

**Note 3 to paragraph (a)(8):** This paragraph is applicable only to those contracts and funding authorizations that are dated January 5, 2015, or later.

(b) [Reserved]

(c) [Reserved]

(d) Parts, components, assemblies, accessories, attachments, and associated equipment for the personal protective equipment controlled in this category, as follows:

(1) Ceramic or composite plates that provide protection equal to or greater than NIJ Type IV;

(2) Lenses, substrates, or filters ''specially designed'' for the articles covered in paragraph (a)(7) of this category;

(3) Materials and coatings specially designed for the articles covered in paragraph (a)(7) of this category with optical density greater than 3, as follows:

(i) Narrowband absorbing dyes;

(ii) Broadband optical switches or limiters (*i.e.,* nonlinear material, tunable or switchable agile filters, optical power limiters, near infrared interference based filters); or

(iii) Narrowband interference based notch filters (*i.e.,* multi-layer dielectric coatings, rugate, holograms or hybrid (*i.e.,* interference with dye)) protecting against multiple laser wavelength and having high visible band transparency; or

*(4) Any component, part, accessory, attachment, equipment, or system that:

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information.

**Note to paragraph (d)(4):** ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international government.

**Note to paragraphs (a) and (d):** *See* National Institute of Justice Classification, NIJ Standard-0101.06, or national equivalents, for a description of level of protection for armor.

(e) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category.

(f)–(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

**Note to paragraph (x):** Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (*see* § 123.1(b) of this subchapter).

* * * * *

**Category XVI—Nuclear Weapons Related Articles**

(a) [Reserved]

*(b) Modeling or simulation tools that model or simulate the environments generated by nuclear detonations or the effects of these environments on systems, subsystems, components, structures, or humans.

(c) [Reserved]

(d) Parts, components, accessories, attachments, associated equipment, and production, testing, and inspection equipment and tooling, specially designed for the articles in paragraph (b) of this category.

(e) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraph (b) of this category. (*See* § 123.20 of this subchapter for nuclear related controls.)

(f)–(w) [Reserved]

(x) Commodities, software, and technical data subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

**Note to paragraph (x):** Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technical data subject to the EAR (*see* § 123.1(b) of this subchapter).

* * * * *

■ 3. Section 121.5 is removed and reserved, as follows:

**§ 121.5 [Reserved]**

■ 4. Section 121.8 is revised to read as follows:

**§ 121.8 End-items, components, accessories, attachments, parts, firmware, software, systems, and equipment.**

(a) An *end-item* is a system, equipment, or an assembled article ready for its intended use. Only ammunition or fuel or other energy source is required to place it in an operating state.

(b) A *component* is an item which is useful only when used in conjunction with an end-item. A major component includes any assembled element which forms a portion of an end-item without which the end-item is inoperable. A minor component includes any assembled element of a major component.

(c) *Accessories* and *attachments* are associated articles for any component, equipment, system, or end-item, and which are not necessary for its operation, but which enhance its usefulness or effectiveness.

(d) A *part* is any single unassembled element of a major or a minor component, accessory, or attachment which is not normally subject to disassembly without the destruction or the impairment of designed use.

(e) *Firmware* and any related unique support tools (such as computers, linkers, editors, test case generators, diagnostic checkers, library of functions, and system test diagnostics) directly related to equipment or systems covered under any category of the U.S. Munitions List are considered as part of the end-item or component. Firmware includes but is not limited to circuits into which software has been programmed.

(f) *Software* includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems, and support software for design, implementation, test, operation, diagnosis and repair. A person who intends to export software only should, unless it is specifically enumerated in § 121.1 of this subchapter (*e.g.,* USML Category XIII(b)), apply for a technical data license pursuant to part 125 of this subchapter.

(g) A *system* is a combination of parts, components, accessories, attachments, firmware, software, equipment, or end-items that operate together to perform a function.

**Note to paragraph (g):** The industrial standards established by INCOSE and NASA provide examples for when commodities and software operate together to perform a function as a system. References to these standards are included in this note to provide examples for when commodities or software operate together to perform a function as a system. See the INCOSE standards for what constitutes a system at: *http://g2sebok.incose.org/app/mss/asset.cfm?ID=INCOSE%20G2SEBOK%202.00&ST=F,* and in INCOSE SE Handbook v3.1 2007; ISO/IEC 15288:2008. See the NASA standards for examples of what constitutes a system in NASA SE Handbook SP–2007–6105 Rev 1.

(h) *Equipment* is a combination of parts, components, accessories, attachments, firmware, or software that operate together to perform a function of, as, or for an end-item or system. Equipment may be a subset of an end-item based on the characteristics of the equipment. Equipment that meets the definition of an end-item is an end-item. Equipment that does not meet the definition of an end-item is a component, accessory, attachment, firmware, or software.

■ 5. Section 121.11 is removed and reserved, as follows:

**§ 121.11 [Reserved]**

## PART 123—LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

■ 6. The authority citation for part 123 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261, 112 Stat. 1920; Sec 1205(a), Pub. L. 107–228; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 7. Section 123.20 is amended by revising paragraph (a) and paragraph (c) introductory text, to read as follows:

**§ 123.20 Nuclear related controls.**

(a) The provisions of this subchapter do not apply to articles, technical data, or services in Category VI, Category XVI, or Category XX of § 121.1 of this subchapter to the extent that exports of such articles, technical data, or services are controlled by the Department of Energy or the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended, or are pursuant to a government transfer authorized pursuant to these Acts. For Department of Commerce controls, *see* 15 CFR 742.3 and 744.2, administered pursuant to Section 309(c) of the Nuclear Nonproliferation Act of 1978, as amended (42 U.S.C. 2139a(c)), and 15 CFR 744.5, none of which are subject to the provisions of this subchapter.

* * * * *

(c) A license for the export of a defense article, technical data, or the furnishing of a defense service relating to defense articles referred to in Category VI(e) or Category XX(b)(1) of § 121.1 of this subchapter will not be granted unless the defense article, technical data, or defense service comes within the scope of an existing Agreement for Cooperation for Mutual Defense Purposes concluded pursuant to the Atomic Energy Act of 1954, as amended, with the government of the country to which the defense article, technical data, or defense service is to be exported. Licenses may be granted in the absence of such an agreement only:

* * * * *

## PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT, AND OTHER DEFENSE SERVICES

■ 8. The authority citation for part 124 continues to read as follows:

**Authority:** Sec. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 9. Section 124.2 is amended by removing and reserving paragraphs (c)(5)(iii), (c)(5)(ix), and (c)(5)(xi), as follows:

**§ 124.2 Exemptions for training and military service.**

* * * * *

(c) * * *

(5) * * *

(iii) [Reserved]

* * * * *

(ix) [Reserved]

* * * * *

(xi) [Reserved]

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## PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES

■ 10. The authority citation for part 125 continues to read as follows:

**Authority:** Secs. 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); 22 U.S.C. 2651a; E.O. 13637, 78 FR 16129.

■ 11. Section 125.1 is amended by revising paragraph (e) to read as follows:

**§ 125.1 Exports subject to this part.**

* * * * *

*(e) For the export of technical data related to articles in Category VI(e), Category XVI, and Category XX(b)(1) of § 121.1 of this subchapter, please see § 123.20 of this subchapter.*

**Rose E. Gottemoeller,**

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

[FR Doc. 2013–31323 Filed 12–31–13; 8:45 am]

BILLING CODE 4710–25–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2013–0563; FRL–9904–89-Region 4]**

## Approval and Promulgation of Implementation Plans; North Carolina: Non-Interference Demonstration for Removal of Federal Low-Reid Vapor Pressure Requirement for the Raleigh-Durham-Chapel Hill Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the State of North Carolina's March 27, 2013, State Implementation Plan (SIP) revision to the State's approved Maintenance Plan for the Raleigh-Durham-Chapel Hill 1997 8-hour Ozone Maintenance Area (Triangle Area). Specifically, North Carolina's revision, including updated modeling, shows that the Triangle Area would continue to maintain the 1997 8-hour ozone standard if the currently applicable Federal Reid Vapor Pressure (RVP) standard for gasoline of 7.8 pounds per square inch (psi) were modified to 9.0 psi for three portions (Wake and Durham Counties, and a portion of Granville County) of the Triangle Area during the high-ozone season. The State included a technical demonstration with the revision to demonstrate that the less-stringent RVP standard of 9.0 psi in these areas would not interfere with continued maintenance of the 1997 8-hour Ozone National Ambient Air Quality Standards (NAAQS) or any other applicable standard. Approval of this SIP revision is a prerequisite for EPA's consideration of an amendment to the regulations to remove the aforementioned portions of the Triangle Area from the list of areas that are currently subject to the Federal 7.8 psi RVP requirements. In addition, EPA is also approving changes to the motor vehicle emission budgets (MVEBs) used in the 1997 8-hour ozone maintenance plan for the Triangle Area. EPA has determined that North Carolina's March 27, 2013, SIP revision with respect to the modeling changes and associated technical demonstration, and with respect to the updated MVEBs, is consistent with the applicable provisions of the Clean Air Act (CAA or Act). Should EPA decide to remove the subject portions of the Triangle Area from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a subsequent rulemaking.

**DATES:** This rule will be effective on February 3, 2014.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2013–0563. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street

SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at l*akeman.sean@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

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## I. Background of the Triangle Area

In 1991, the Triangle Area was designated as a moderate nonattainment area pursuant to the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Under the 1-hour ozone NAAQS, the Triangle nonattainment area was composed of Durham and Wake Counties, and the Dutchville Township portion of Granville County. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain volatility standards (known as Reid Vapor Pressure or RVP) for gasoline sold commercially. *See* 55 FR 23658 (June 11, 1990). As part of the RVP requirements associated with its nonattainment designation, gasoline sold in the Triangle 1-hour nonattainment area could not exceed 7.8 psi RVP during the high-ozone season months.

Following implementation of the 7.8 psi RVP requirement in the Triangle Area, on April 18, 1994, the Area was redesignated to attainment for the 1-hour ozone standard, based on 1989–1992 ambient air quality monitoring data. *See* 59 FR 18300. North Carolina's redesignation request for the 1-hour ozone Triangle Area did not, however, include a request for the Area to be removed from the list of areas subject to the 7.8 psi RVP standard. As such, the 7.8 RVP requirement remained in place for Durham and Wake Counties, and the Dutchville Township portion of Granville County when the Triangle Area was designated nonattainment for the 1997 8-hour ozone NAAQS. Under the 1997 8-hour ozone NAAQS, the Triangle Area was expanded from Durham and Wake Counties, and the Dutchville Township portion of Granville County to also include Franklin, Johnston, Orange, and Person Counties, the remainder of Granville County and Baldwin, Center, New Hope and Williams Townships in Chatham County. *See* 69 FR 23857 (April 30, 2004). In 2007, the Triangle Area was redesignated to attainment for the 1997 8-hour ozone NAAQS. *See* 72 FR 72948, (December 26, 2007). The Triangle Area was later designated as attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088 (May 21, 2012).

## II. Background of the Gasoline Volatility Requirement

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOC), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under section 211(c) of CAA, EPA promulgated regulations on March 22, 1989 (54 FR 11868), that set maximum limits for the RVP of gasoline sold during the high ozone season. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the State, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS during the high ozone season).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658).

As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, EPA will rely on states to initiate changes to EPA's volatility program that they believe will enhance local air quality and/or increase the economic efficiency of the program within the limits of CAA section 211(h).[1] In those rulemakings, EPA explained that the Governor of a State may petition EPA to set a volatility standard less stringent than 7.8 psi for some month or months in a nonattainment area. The petition must demonstrate such a change is appropriate because of a particular local economic impact and that sufficient alternative programs are available to achieve attainment and maintenance of the 1-hour ozone NAAQS. A current listing of the RVP requirements for states can be found on EPA's Web site at: *http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/standards.htm.*

As explained in the December 12, 1991 (56 FR 64704), Phase II rulemaking, EPA believes that relaxation of an applicable RVP standard in a nonattainment area is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, section 107(d)(3) of the Act requires the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for ten years after redesignation. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates, to the satisfaction of EPA, that the area will maintain attainment for ten years without the need for the more stringent

[1] *See* 55 FR 23658 (June 11, 1990), 56 FR 24242 (May 29, 1991) and 56 FR 64704 (Dec. 12, 1991).

volatility standard. As noted above, however, North Carolina did not request relaxation of the applicable 7.8 psi RVP standard when the Triangle Area was redesignated to attainment for the either the 1-hour or the 1997 8-hour ozone NAAQS. Rather, North Carolina is now seeking to relax the 7.8 psi RVP standard after the Triangle Area has been redesignated to attainment for the 1997 8-hour ozone NAAQS. Accordingly, the original modeling and maintenance demonstration supporting the 1997 8-hour ozone maintenance plan must be revised to reflect continued attainment under the relaxed 9.0 psi RVP standard that the State has requested.

## III. Background of Mobile Source Inventories and Motor Vehicle Emission Budgets Update

On June 7, 2007, the State of North Carolina, through NC DENR, submitted a final request for EPA to: (1) Redesignate the Triangle Area to attainment for the 1997 8-hour ozone standard; and (2) approve a North Carolina SIP revision containing a maintenance plan for the Triangle Area. On December 26, 2007 (72 FR 72948), EPA approved the redesignation request for the Triangle Area. Additionally, EPA approved the 1997 8-hour ozone maintenance plan including nitrogen oxides ($NO_X$) MVEBs for the Triangle Area.[2] These approvals were based on EPA's determination that the State of North Carolina had demonstrated that the Triangle Area met the criteria for redesignation to attainment specified in the CAA, including the determination that the entire Triangle Area had attained the 1997 8-hour ozone NAAQS.

At the time of original redesignation request, the on-road motor vehicle inventory was generating by the MOBILE6.2 model, which at the time was the current MVEB model. The change to the maintenance plan discussed above includes a MVEB generated by the MOVES model which has since replaced the MOBILE6.2 model. In addition, the model used to calculate the original non-road inventory (NONROAD2005c) has also since been updated by a new non-road inventory model (NONROAD2008a).

As a result of these new models and the revised emission associated with a relaxed RVP standard, the safety margin[3] calculations provided in the revised maintenance plan have changes from the previous margins included with the original maintenance plan. Therefore, North Carolina's revision includes a reallocation of the safety margin to the $NO_X$ MVEB based upon the revised calculations.

NC DENR is currently allocating portions of the available safety margin to the MVEBs to allow for unanticipated vehicle miles traveled growth as well as changes to future vehicle mix assumptions that influence the emission estimations. A total of 14,396 kilograms (kg) (15.87 tons per day (tpd)) and 13,563 kg (14.95 tpd) from the available $NO_X$ safety margins in 2008 and 2017, respectively, were added to the MVEBs for the Triangle Area.

## IV. This Action

On October 30, 2013 (78 FR 64896), EPA proposed approval of North Carolina's March 27, 2013, revision to the State's approved 1997 8-hour ozone maintenance plan for the Triangle Area. Specifically, North Carolina's revision, including updated modeling, shows that the Triangle Area would continue to maintain the 1997 8-hour ozone standard if the currently applicable RVP standard for gasoline of 7.8 psi were modified to 9.0 psi during the high-ozone season. In addition, the revision included changes to the MVEBs used in the 1997 8-hour ozone maintenance plan for the Triangle Area. No adverse comments were received on this proposed action and EPA is hereby finalizing approval of the revision.

The Triangle Area is currently designated attainment for the 1997 8-hour ozone NAAQS. The Area was redesignated from nonattainment of the 1997 8-hour ozone NAAQS on December 26, 2007. *See* 72 FR 72948. This rulemaking approves a revision to the 1997 8-hour ozone Maintenance Plan for the Triangle Area submitted by the NC DENR. Specifically, EPA is approving changes to the maintenance plan, including updated modeling, that shows that the Triangle Area can continue to maintain the 1997 ozone standard without reliance on emission reductions based upon the use of gasoline with an RVP of 7.8 psi in any of the Triangle Area counties during the high ozone season—June 1 through September 15. EPA is also concluding that the new modeling demonstrates that the Triangle Area would continue to attain the 1997 8-hour ozone standard with the use of gasoline with an RVP of 9.0 psi throughout the Triangle Area during the high ozone season. Consistent with section 110(l) of the Act, EPA also concludes that the use of gasoline with an RVP of 9.0 psi throughout the Maintenance Plan Areas during the high ozone season would not interfere with other applicable requirements of the Act.

Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. Because the modeling associated with the current maintenance plan for North Carolina is premised in part upon the 7.8 psi RVP requirements, a request to revise the maintenance plan modeling to no longer rely on the 7.8 psi RVP requirement is subject to the requirements of CAA section 110(l). Therefore, the State must demonstrate that this revision will not interfere with the attainment or maintenance of any of the NAAQS or any other applicable requirement of the CAA.

This section 110(l) non-interference demonstration is a case-by-case determination based upon the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which the EPA has not yet made designations. The specific elements of the 110(l) analysis contained in the SIP revision depend on the circumstances and emissions analyses associated with that revision. EPA's analysis of North Carolina's March 27, 2013, SIP revision, including review of section 110(l) requirements can be found in the proposed rule published on October 30, 2013, at 78 FR 64896.

This rulemaking approves the State's revision to its existing maintenance plan for the Triangle Area demonstrating that the Area can continue to maintain the standard without relying upon gasoline with an RVP of 7.8 psi being sold in the Triangle area during the high ozone season. Consistent with CAA section 211(h) and the Phase II volatility regulations a separate rulemaking is required for relaxation of the current requirement to use gasoline with an RVP of 7.8 psi in the Triangle Area.[4]

[2] In the December 26, 2007, final rule EPA also approved NC DENR's determination that on-road emissions of VOC are insignificant for transportation conformity purposes. We are not addressing that insignificance finding in today's rule.

[3] A safety margin is the difference between the attainment level of emissions from all source categories (i.e., point, area, and mobile) and the projected level of emissions from all source categories. The State may choose to allocate some of the safety margin to the MVEBs, for transportation conformity purposes, so long as the total level of emissions from all source categories remains equal to or less than the attainment level of emissions. (40 CFR 93.124(a)).

[4] The decision regarding removal of Federal RVP requirements pursuant to section 211(h) in the Triangle Area includes other considerations

Continued

Additionally, the new modeling conducted by North Carolina to account for the requested relaxation of the applicable RVP standard in a portion of the Triangle Area also results in changes to the safety margin associated with the maintenance plan.[5] As such, the North Carolina revision includes a reallocation of the safety margin among the $NO_x$ MVEBs for the Triangle Area, which EPA is also approving today.

## V. Final Action

EPA is approving the State of North Carolina's March 27, 2013, revision to its Maintenance Plan for the Triangle 1997 8-hour Ozone Maintenance Area. Specifically, EPA is approving the State's showing that the Triangle Area can continue to maintain the 1997 ozone standard without emissions reductions associated with the use of 7.8 psi RVP gasoline in the three portions of the Triangle Area currently subject to the 7.8 psi RVP standard during the high ozone season—June 1 through September 15.

EPA is approving the revised and updated modeling submitted by the State, which shows that the Triangle Area can continue to maintain the 1997 ozone standard if the applicable RVP standard in the three portions of the Triangle Area. EPA is also approving the revised $NO_X$ MVEBs for 2008 and 2017 including the revised and reallocated safety margin among the $NO_X$ MVEBs for the Triangle Area.

EPA has determined that North Carolina's March 27, 2013, SIP revision, including the technical demonstration associated with the State's request for the removal of the Federal RVP requirements, and the updated MVEBs are consistent with the applicable provisions of the CAA. Should EPA decide to remove the subject portions of the Triangle Area from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a separate, subsequent rulemaking.

## VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

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

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Reporting and recordkeeping requirements and Volatile organic compounds.

Dated: December 18, 2013.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

40 CFR part 52, is amended as follows:

## PART 52—[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

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

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

## Subpart II—North Carolina

■ 2. Section 52.1770(e), is amended by adding a new entry for ''Supplement Maintenance Plan for the Raleigh-Durham-Chapel Hill, NC 1997 8-hour Ozone Maintenance Area.'' at the end of the table to read as follows:

### § 52.1770 Identification of plan.

* * * * *

(e) * * *

evaluated at the discretion of the Administrator. As such, the determination regarding whether to remove the Area from those areas subject to the section 211(h) requirements is made through a separate rule making action.

[5] In addition to a less stringent RVP standard, the new modeling also utilizes updated models for on-road and off-road mobile emission sources.

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

| Provision | State effective date | EPA approval date | Federal Register citation | Explanation |
|---|---|---|---|---|
| * * * | | * | * * | * |
| Supplement Maintenance Plan for the Raleigh-Durham-Chapel Hill, NC 1997 8-hour Ozone Maintenance Area and RVP Standard. | 3/27/2013 | 1/2/14 | [Insert citation of publication]. | |

[FR Doc. 2013–31250 Filed 12–31–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2010–0333; FRL–9904–72–Region 6]**

## Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonable Further Progress Plan, Contingency Measures, Motor Vehicle Emission Budgets, and a Vehicle Miles Traveled Offset Analysis for the Houston-Galveston-Brazoria 1997 8-Hour Severe Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving two State Implementation Plan (SIP) revisions submitted by the State of Texas on April 1, 2010, and revised on May 6, 2013, containing a reasonable further progress (RFP) plan, RFP contingency measures demonstration, motor vehicle emission budgets (MVEBs), and a vehicle miles traveled (VMT) offset analysis for the Houston-Galveston-Brazoria (HGB) 1997 8-hour ozone severe nonattainment area. EPA is approving SIP revisions in accordance with the requirements of the Clean Air Act (CAA) and EPA regulations.

**DATES:** This final rule is effective February 3, 2014.

**ADDRESSES:** EPA established a docket for this action under Docket ID Number EPA–R06–OAR–2010–0333. All documents in the docket are listed in the *http://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 *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carl Young, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6645; email address *young.carl@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On September 9, 2013 (78 FR 55029), EPA published a proposed approval of the 2010 RFP plan, RFP contingency measures, MVEBs, and VMT offset analysis for the HGB severe 1997 8-hour ozone nonattainment area. The SIP revisions for this action were formally submitted by the State of Texas on April 1, 2010, and revised on May 6, 2013. The SIP revisions address the RFP and RFP contingency measures requirements for the 1997 8-hour ozone NAAQS, and establish MVEBs for 2013. The revision also provides a VMT offset analysis demonstration, a severe area requirement, which shows the area does not need any additional transportation control measures (TCMs) or transportation control strategies (TCSs) to keep mobile source emissions below the established emissions ceiling. EPA's rationale for our proposed action is explained in the September 9, 2013 proposed rulemaking as well as a more detailed description of the two submittals, and will not be restated here. EPA is approving the SIP revisions because they satisfy the RFP, RFP contingency measures, and transportation conformity requirements for MVEBs of section 110 and part D of the CAA and associated EPA regulations, and section 182(d)(1)(A) of the CAA.

### II. Response to Comments

We received several comments from the Texas Commission on Environmental Quality. In addition to supporting our proposed approval, the state asked for clarification to support consistency across TCEQ and EPA documents for a number of items.

*Comment 1.* Table 1: *Revisions to the 2002 RFP Base Year Emissions Inventory* on Page 55031 is not the original 2002 RFP Base Year. It is an attainment demonstration base year table. Table 2: *RFP 2002 Baseline Emissions Inventory Summary* is the revised RFP Base Year Emissions Inventory and is correct. Table 1 needs to be updated to contain the original base year information.

*Response 1:* EPA acknowledges that some confusion may have occurred with the labeling of the base year columns in this table due to the fact that there were multiple submittals with one partial submittal, and with multiple references to base years. We have clarified Table 1 by re-labeling the base year columns and republishing it below to better reflect the years for which the values were calculated. The values in the columns remain unchanged.

TABLE 1—REVISIONS TO THE 2002 RFP BASE YEAR EMISSIONS INVENTORY

[Tons/day]

| Source type | $NO_X$ | | VOC | |
|---|---|---|---|---|
| Submittal date | Previously approved | Revised inventory * | Previously approved | Revised inventory * |
| Point | 339.48 | 339.29 | 297.12 | 316.62 |

TABLE 1—REVISIONS TO THE 2002 RFP BASE YEAR EMISSIONS INVENTORY—Continued

[Tons/day]

| Source type | $NO_X$ | | VOC | |
|---|---|---|---|---|
| Submittal date | Previously approved | Revised inventory * | Previously approved | Revised inventory * |
| Area | 40.15 | 89.11 | 219.51 | 407.61 |
| On-road Mobile | 283.20 | 371.89 | 114.30 | 124.47 |
| Non-road Mobile | 167.74 | 156.98 | 112.37 | 84.32 |
| Total | 830.57 | 957.27 | 743.30 | 933.02 |

* Submitted by the State on May 6, 2013.

*Comment 2:* In the center column on Page 55031, there are several incorrect references to a 15% reduction for HGB between 2002 and 2008. The correct reduction for HGB between 2002 and 2008 is 18%. The references to the required reduction for HGB between 2002 and 2008 may need to be updated to be 18% throughout the whole document, as appropriate.

*Response 2:* EPA approved the HGB moderate area RFP for the 1997 8-hour ozone standard which included a 15% plan as well as contingency measures and associated MVEBs on April 22, 2009 (76 FR 18298). In that action, EPA recognized that the state had requested, and EPA had granted, a reclassification of the HGB area from moderate to severe on October 1, 2008 (73 FR 56983). With that reclassification the state was required to provide an RFP with emission reductions for VOC and/or $NO_X$ of 18% for the six-year period, plus 3% per year for all remaining three-year periods after the first six-year period out to the attainment date as prescribed in 40 CFR 51.910(a)(1)(ii)(B). We agree that the correct RFP reduction for the HGB area between 2002 and 2008 is 18%.

*Comment 3:* The EPA's RFP demonstration summary and the associated Table 6 on Page 55033 only discuss an RFP demonstration for 2018. There are RFP demonstrations for 2008, 2011, 2014, 2017, and 2018. The summaries of the RFP controls (Tables 4 and 5) have all five years but the RFP demonstration table only has 2018. The RFP demonstration discussion may need to be updated to include all five RFP demonstration years.

*Response 3:* The efficacy of providing only the 2018 RFP demonstration table as an example of the state meeting RFP was done that way because the 2018 table was built upon all the other RFP demonstration tables which also showed the milestone RFP targets were met. We are providing a summary table here as Table 6–1 to show how all the RFP milestones were met.

TABLE 6–1—UPDATE SUMMARY OF RFP DEMONSTRATION FOR HGB

| Inventory description | 2008 | 2011 | 2014 | 2017 | 2018 |
|---|---|---|---|---|---|
| Forecast $NO_X$ Emissions | 642.55 | 635.68 | 571.88 | 528.37 | 522.17 |
| $NO_X$ Target | 816.10 | 754.15 | 667.70 | 580.60 | 555.22 |
| Forecast VOC Emissions | 883.13 | 875.72 | 886.17 | 896.41 | 901.62 |
| VOC Target | 923.82 | 927.98 | 919.19 | 912.54 | 907.50 |
| Targets Met? | Yes | Yes | Yes | Yes | Yes |

*Comment 4:* The last column on Page 55033 indicates that the RFP contingency may be met by including a demonstration of 27% Volatile Organic Compounds (VOC) and nitrogen oxides ($NO_X$) reductions in the RFP plan. On Page 55034, the 27% is stated as being calculated by adding 15 and 12%. The RFP contingency is met by including a cumulative demonstration of 51%, which is the sum of the VOC and $NO_X$ reductions requirement, from 2002 base year, with 2008, 2011, 2014, 2017 milestone years, 2018 attainment year, and 2019 contingency year (18+9+9+9+3+3). Either the amount needs to be changed to 51% or a further explanation of the 27%, 15%, and 12% reductions is suggested for clarification.

*Response 4:* EPA acknowledges this misstatement and corrects the percentage here in this final action to reflect that the actual achievement shown in the RFP is 51% and not the 27% as stated in the proposal. This change does not alter the final outcome of our analysis.

*Comment 5:* In the first full paragraph of the middle column on Page 55036, the description of the values in Table 9: *RFP Motor Vehicle Emissions Budgets for HGB* are referred to as the total projected transportation emissions for milestone years 2008 to 2018. In actuality, the values are the MVEBs, which are the projected emissions adjusted with transportation conformity safety margins. The description may be more accurate if it is modified: (a) To indicate the safety margin adjustment; or (b) to refer to values as the MVEBs rather than projected emissions.

*Response 5:* EPA agrees that the values in Table 9 show the total projected transportation emissions for milestone years 2008 through 2018 plus safety margins. We modify here our description preceding Table 9 to include this clarifying phrase: ''Table 9 shows the total projected transportation emissions plus safety margins for milestone years 2008–2018 as submitted in Tables 7–43 through 7–47 of the 2013 SIP Submittal.''

*Comment 6:* Clarification is needed to support consistency across TCEQ and EPA documents. As EPA notes in the technical support document (TSD), there was an error in the spreadsheet calculation that lowered the VOC values in Tables 7–29 through 7–31 by 19.82 tons per day of VOC. This error resulted in a conservative projection of VOC emission reductions taking place by that amount. The resulting surplus of VOCs could have been greater by 19.82 tons per day. EPA should clarify in the final approval notice that this surplus is appropriate for the HGB area, and that TCEQ will address this error in the next SIP submittal, without penalty.

*Response 6:* For the purposes of the proposal, EPA did not see the need to mention the particulars of this error in the proposed approval. However, in this final action we are acknowledging that the excess emissions of VOC available to the TCEQ for future SIP submittals is actually 19.82 ton per day more than the 5.88 tons per day shown in Table 7–31 of the 2013 submittal. This provides the state with 25.60 tons per day of excess VOC emissions available for future planning purposes. We are not modifying any tables in this final action to reflect this because the tables show what was in the 2013 submittal.

**III. Final Action**

The EPA is approving the 2010 RFP plan; RFP contingency measures; 2013 MVEBs; and the VMT offset analysis for the HGB 1997 8-hour severe ozone nonattainment area. The SIP revision satisfies requirements for 1997 8-hour ozone NAAQS nonattainment areas classified as severe and demonstrates reasonable further progress in reducing ozone precursors. The VMT offset analysis demonstrates that the credited TCSs and TCMs for the attainment year are sufficient to offset the anticipated increase in VMT over time, and therefore no additional TCSs or TCMs are needed to attain the NAAQS.

**IV. Statutory and Executive Order Reviews**

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive 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 Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

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

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: December 16, 2013.

**Ron Curry,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart SS—Texas

■ 2. In § 52.2270, the second table in paragraph (e) entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding, at the end of the table, entries for ''Reasonable Further Progress Plan (RFP), RFP Contingency Measures''; ''RFP Transportation Conformity Motor Vehicle Emission Budgets (2008, 2011, 2014, 2017 and 2018)'' and ''Vehicle Miles Traveled (VMT) Offset Analysis'' to read as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(e) * * *

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

| Name of SIP provision | Applicable geographic or nonattainment area | State submittal/ effective date | EPA-approval date | Comments |
|---|---|---|---|---|
| * | * * | * | * * | * |
| Reasonable Further Progress Plan (RFP), RFP Contingency Measures. | Houston-Galveston-Brazoria, TX. | 4/1/2010, 5/6/2013 | [Insert page number where the document begins]. | |
| RFP Motor Vehicle Emission Budgets (2008, 2011, 2014, 2017 and 2018). | Houston-Galveston-Brazoria, TX. | 5/6/2013 | [Insert page number where the document begins]. | |
| Vehicle miles traveled offset analysis. | Houston-Galveston-Brazoria, TX. | 5/6/2013 | [Insert page number where the document begins]. | |

[FR Doc. 2013–30876 Filed 12–31–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2011–0854; FRL–9904–50–Region 3]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of the 2002 Base Year Emissions Inventory for the Liberty-Clairton Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** As a revision to the Pennsylvania State Implementation Plan (SIP), Environmental Protection Agency (EPA) is approving the 2002 base year emissions inventory for the Liberty-Clairton nonattainment area for the 1997 annual fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS or standard) (hereafter ''the Liberty-Clairton Area'' or ''the Area''). EPA is also approving revisions to the Allegheny County Health Department (ACHD) regulations, which were submitted by Pennsylvania Department of Environmental Protection (PADEP). These regulatory revisions included the following amendments to ACHD regulations, which became effective on May 24, 2010: The addition of the levels of the 1997 annual $PM_{2.5}$ standard and the 2006 24-hour $PM_{2.5}$ standard, and the related references to the list of standards and the addition of the definition of ''$PM_{2.5}$''. These actions are being taken under the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on February 3, 2014.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0854. 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 Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

**FOR FURTHER INFORMATION CONTACT:** Emlyn Vélez-Rosa, (215) 814–2038, or by email at velez-rosa.emlyn@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Background
II. Summary of State Submittal
III. Effects of Recent Court Decisions
IV. Final Action
V. Statutory and Executive Order Reviews

### I. Background

The formal SIP revision submittal, prepared by ACHD, was submitted by PADEP on June 17, 2011. The SIP revision included the 1997 annual $PM_{2.5}$ NAAQS attainment plan for the Liberty-Clairton Area, a 2002 base year emissions inventory for purposes of meeting the requirement of section 172(c)(3) of the CAA, the transportation conformity motor vehicle emissions budgets (MVEBs), and certain revisions to ACHD regulations. This SIP revision is described in further detail in section II of this rulemaking action.

On November 7, 2011 (76 FR 68699), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth in Pennsylvania. In the NPR, EPA proposed conditional approval of the 1997 annual $PM_{2.5}$ NAAQS attainment plan for the Liberty-Clairton Area (the ''attainment plan''). EPA proposed conditional approval because the attainment plan included air quality modeling that relied on emissions reductions from the Clean Air Interstate Rule (CAIR), which was problematic because at the time CAIR was no longer in place. EPA had promulgated the Cross State Air Pollution Rule (CSAPR) on August 8, 2011 (76 FR 48208) to replace CAIR. As part of this NPR, EPA also proposed to approve the amendments to ACHD regulations included in the June 17, 2011 SIP revision, which added the definition of $PM_{2.5}$ and the level of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. No public comments were received on this NPR.

On October 25, 2013 (78 FR 63881), EPA determined that the Liberty-Clairton Area had attained the 1997 annual $PM_{2.5}$ NAAQS, based on quality-assured and certified ambient air quality data for the 2009–2011 and 2010–2012 monitoring periods. This ''clean data determination'' suspended the requirement for the Liberty-Clairton Area to submit an attainment demonstration, reasonably available control measures (RACM), reasonable further progress (RFP), and contingency measures related to attainment of the 1997 annual $PM_{2.5}$ NAAQS, for so long as the Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS.

On November 18, 2013, PADEP submitted a letter requesting to

withdraw the sections of the June 17, 2011 SIP revision pertaining to the suspended planning requirements for the Liberty-Clairton Area as a result of EPA's determination of attainment for the Area. Specifically, PADEP requested to withdraw all portions of the June 17, 2011 SIP revision, except for the portions pertaining to the 2002 base year emissions inventory and the revisions to the ACHD regulations, which are discussed in section 2 (Regulatory Changes), section 6 (Emissions Inventory), and appendix F (Stationary Point, Area, Nonroad, and Mobile Emissions Inventories) of the SIP submittal. As a result of PADEP's November 18, 2013 letter, EPA has no statutory obligation to take further action on the portions of the June 17, 2011 SIP revision that have been withdrawn. Therefore, in this rulemaking action, EPA is only approving of the June 17, 2011 submittal, the 2002 base year emissions inventory and the submitted revisions to ACHD regulations.

## II. Summary of State Submittal

As discussed in this rulemaking action, the 2002 base year emissions inventory was submitted by PADEP as part of the June 17, 2011 SIP revision. The base year emissions inventory includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides ($NO_X$), volatile organic compounds (VOC), $PM_{2.5}$, coarse particles ($PM_{10}$), ammonia, and sulfur dioxide ($SO_2$). In accordance with 40 CFR 51.1008(b), PADEP selected 2002 as the base year for the emissions inventory. EPA has reviewed the results, procedures and methodologies for the 2002 base year emissions inventory submitted by PADEP and finds them approvable. Further analysis of the emissions inventory development can be found in the June 17, 2011 SIP submittal and in EPA's October 5, 2011 technical support document (TSD) included as part of the docket for this rulemaking action. *See* Docket ID Number EPA–R03–2011–0854.

The SIP submittal also included the following amendments to ACHD regulations, which became effective on May 24, 2010: (1) The addition of the 1997 annual $PM_{2.5}$ standard level of 15 $\mu g/m^3$, the 2006 24-hour $PM_{2.5}$ standard level of 35 $\mu g/m^3$, and the related references to the list of standards in ACHD article XXI section 2101.10 and (2) the addition of the definition of ''$PM_{2.5}$'' to ACHD article XXI section 2101.20. These regulatory amendments are described in sections 2 and 6 and appendix F of the June 17, 2011 SIP submittal. EPA's rationale for approving the described SIP revisions was provided in the NPR and will not be restated here.

## III. Effects of Recent Court Decisions

On January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* the D.C. Circuit remanded to EPA both the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule'' or ''Implementation Rule''). *See* 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 annual $PM_{2.5}$ NAAQS pursuant solely to the general implementation provisions of subpart 1 of part D of Title I of the CAA (subpart 1), rather than the particulate-matter-specific provisions of subpart 4 of part D of Title I of the CAA (subpart 4). As a result, the D.C. Circuit Court remanded EPA's Implementation Rule and instructed EPA ''to repromulgate these rules pursuant to subpart 4 consistent with this opinion.'' Significantly, the Court's decision remanded the rules to EPA and did not vacate them. In a future rulemaking action, EPA intends to respond to the Court's remand and to promulgate new implementation regulations for the $PM_{2.5}$ NAAQS in accordance with the requirements of subpart 4. In the interim, EPA will proceed to review attainment plans that have already been submitted but are not yet approved where appropriate.

EPA has two longstanding general guidance documents that interpret the 1990 amendments to the CAA, commonly known as the ''General Preamble'' and the ''Addendum,'' that make recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas including those of subpart 4.[1] In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific $PM_{10}$ requirements.''[2] Section 172(c)(3) of the CAA requires that States submit a comprehensive, accurate, and current inventory of actual emissions from all sources in the nonattainment area. In the General Preamble, EPA stated that section 172(c)(3) applies for purposes of subpart 4, which itself contains no additional emissions inventory requirements for purposes of $PM_{10}$.[3] Thus, subpart 4 adds no additional emissions inventory requirements.

EPA's remanded 1997 $PM_{2.5}$ Implementation Rule required States to meet emissions inventory requirements, including a statewide emissions inventory of direct $PM_{2.5}$ and all $PM_{2.5}$ precursors, any additional emissions inventory information needed to support an attainment demonstration and RFP requirements, and a baseline (*i.e.* base year) emissions inventory suitable for the SIP planning requirements for the area at issue.[4] As EPA explained in the 1997 $PM_{2.5}$ Implementation Rule, in order to ensure that States provide the information necessary for SIP planning, including the need to evaluate which $PM_{2.5}$ precursors a state should regulate in a given nonattainment area, the requirements relating to emissions inventories include a requirement that States must provide emissions information for direct $PM_{2.5}$, $SO_2$, $NO_X$, VOCs, and ammonia.[5]

EPA believes that the D.C. Circuit Court's decision in *NRDC* v. *EPA* does not affect the emissions inventory requirements for the 1997 annual $PM_{2.5}$ NAAQS. The D.C. Circuit Court's remand of the 1997 $PM_{2.5}$ Implementation Rule to EPA with instructions to repromulgate implementation regulations consistent with subpart 4 would not result in additional emissions inventory requirements under subpart 4 because

[1] *See* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (57 FR 13498, April 16, 1992) (hereafter, General Preamble). EPA notes that it has issued additional guidance for attainment plans for $PM_{10}$ in particular, including extra requirements for areas classified as ''serious'' nonattainment areas under subpart 4. *See* ''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) (hereafter, Addendum).

[2] *See* 57 FR 13538.

[3] *See* General Preamble, 57 FR 13539. EPA notes, however, that under subpart 4 requirements states may need to submit updated emissions inventories to support later SIP submissions, such as SIP submissions to address the requirements for serious areas under section 189(b)(1), or the requirements for an extension of the serious area attainment date under section 188(e).

[4] *See* 40 CFR 51.1008.

[5] *See* $PM_{2.5}$ Implementation Rule, 72 FR 20648. EPA noted that the obligation to address all of the scientific precursors of $PM_{2.5}$ was a separate requirement needed to support various regulatory purposes, including the evaluation of whether relying on the rebuttable presumptions for precursors was correct in a given area.

none exist. The D.C. Circuit Court's comments on addressing $PM_{2.5}$ precursors consistent with subpart 4 requirements also would not compel a different approach with respect to emissions inventories from that which EPA required under subpart 1. EPA's prior approach under subpart 1 already obligated States to include emissions of direct $PM_{2.5}$, $SO_2$, $NO_X$, VOCs, and ammonia in such inventories, and provided no presumptions to exclude precursors from inventories. To the contrary, the emissions inventory requirement includes these precursors to assure adequate information to inform decisions about what pollutants to regulate for purposes of attaining the NAAQS in a given area.

As part of EPA's November 7, 2011 NPR, EPA proposed approval of Liberty-Clairton Area's submission with respect to emissions inventory requirements.[6] In that NPR, EPA explained that the Liberty-Clairton Area's emissions inventory information was consistent with EPA's guidance and correctly included the emissions of direct $PM_{2.5}$, $SO_2$, NOx, VOC, and ammonia.[7] Additionally, EPA provided a discussion of the sources of information for emissions from stationary sources, area sources, and mobile sources in the Liberty-Clairton Area and an explanation supporting its proposed finding that the State's approach was appropriate. No comments were received for this NPR.

Because the emissions inventories, submitted by PADEP as part of Liberty-Clairton Area's attainment plan for the 1997 annual $PM_{2.5}$ NAAQS, already included emissions of direct $PM_{2.5}$, $SO_2$, NOx, VOC, and ammonia, EPA concludes that there is no need to reexamine the emissions inventories for the Liberty-Clairton Area. EPA finds that the process used to develop the 2002 base year emissions inventory for the Liberty-Clairton Area is adequate to meet the requirements of CAA section 172(c)(3), the implementing regulations, and EPA guidance for emission inventories with respect the 1997 annual $PM_{2.5}$ NAAQS.

## IV. Final Action

EPA is approving into the Pennsylvania SIP the 2002 base year emissions inventory for the Liberty-Clairton Area for the 1997 annual $PM_{2.5}$ NAAQS, which was submitted as part of the June 17, 2011 submittal. EPA is also approving into Pennsylvania's SIP revisions to article XXI, sections 2101.10 and 2101.20 of ACHD regulations for the addition of the definition of $PM_{2.5}$ and the levels of the 1997 annual $PM_{2.5}$ and the 2006 24-hour $PM_{2.5}$ standards. EPA is not taking action on the remaining portions of the June 17, 2011 submittal, as they were withdrawn by PADEP by a November 18, 2013 letter.

## V. 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 March 3, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, which approves the 2002 base year emissions inventory for the Liberty-Clairton Area for the 1997 annual $PM_{2.5}$ NAAQS and revisions to ACHD regulations of the $PM_{2.5}$ definitions and levels, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

### List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Sulfur oxides, Volatile organic compounds.

[6] *See* 76 FR 68699, at 68701.

[7] For further details, see the TSD document entitled ''Technical Support Document (TSD) for Liberty-Clairton $PM_{2.5}$ Nonattainment Area: State Implementation Plan (SIP) Attainment Demonstration and Base Year Inventory,'' dated October 5, 2011. The TSD is available in the docket online at *www.regulations.gov,* Docket Number EPA–R03–OAR–2011–0854.

Dated: December 9, 2013.

**W.C. Early,**

*Acting Regional Administrator, Regional 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 NN—Pennsylvania

■ 2. § 52.2020 is amended by:

■ a. Revising the table in paragraph (c)(2) by:

■ (i) Revising the entry for Article XXI citation 2101.10.

■ (ii) Adding another entry for Article XXI citation 2101.20.

■ b. Revising the table in paragraph (e)(1) by adding entries at the end of the table for the 2002 Base Year Inventory for the 1997 Annual $PM_{2.5}$ NAAQS.

The amendments read as follows:

**§ 52.2020 Identification of plan.**

* * * * *

(c) * * *

(2) * * *

| Article XX or XXI citation | Title/subject | State effective date | EPA-approval date | Additional explanation/ § 52.2063 citation |
|---|---|---|---|---|
| **Part A—General** | | | | |
| 2101.10 | Ambient Air Quality Standards (Except: $PM_{10}$—County & Free silica portion; Pb (1-hr & 8-hr avg.); settled particulates, beryllium, sulfates, fluorides, and hydrogen sulfide). | 5/24/10 | 1/2/14 [Insert page number where the document begins]. | Addition of $PM_{2.5}$ standards. |
| 2101.20 | Definitions | 5/24/10 | 1/2/14 [Insert page number where the document begins]. | Addition of "PM–2.5" definition. |

* * * * *

(e) * * *

(1) * * *

| Name of non-regulatory SIP revision | Applicable geographic area | State submittal date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| 2002 Base Year Emissions Inventory for the 1997 Annual $PM_{2.5}$ NAAQS. | Liberty-Clairton $PM_{2.5}$ Nonattainment Area | 6/17/11 | 1/2/14 [Insert page number where the document begins]. | 52.2036(q). |

■ 3. Amend § 52.2036 by adding paragraph (q) to read as follows:

**§ 52.2036 Base year emissions inventory.**

* * * * *

(q) EPA approves as a revision to the Pennsylvania State Implementation Plan the 2002 base year emissions inventory for the Liberty-Clairton 1997 annual fine particulate matter ($PM_{2.5}$) nonattainment area submitted by the Pennsylvania Department of Environmental Protection on June 17, 2011. The base year emissions inventory includes emissions estimates that cover the general source categories of point sources, area sources, on-road mobile sources, and non-road mobile sources. The pollutants that comprise the inventory are $PM_{2.5}$, nitrogen oxides ($NO_X$), volatile organic compounds (VOCs), ammonia ($NH_3$), and sulfur dioxide ($SO_2$).

[FR Doc. 2013–30870 Filed 12–31–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2013–0387; FRL–9904–96-Region 6]**

## Approval and Promulgation of Implementation Plans; Texas; Attainment Demonstration for the Houston-Galveston-Brazoria 1997 8-hour Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the following required State Implementation Plan (SIP) submittals from the State of Texas for the Houston-Galveston-Brazoria 1997 8-hour ozone nonattainment area (HGB area): the attainment demonstration for the 1997 ozone National Ambient Air Quality Standards (NAAQS), the reasonably available control measures (RACM) demonstration for the NAAQS, the contingency measures plan in the event of failure to attain the NAAQS by the applicable attainment date, and a Motor Vehicle Emissions Budget (MVEB) for 2018, which is the attainment year for the area. EPA is also approving revisions to the air pollution control measures and General Air Quality Definitions in the Texas SIP. The revisions to the air pollution control measures include revisions to the Mass Emissions Cap and Trade (MECT) program for nitrogen oxides ($NO_X$), revisions to the highly reactive volatile organic compound (HRVOC) emissions cap and trade (HECT) program, Voluntary Mobile Emissions Program (VMEP) measures, and Transportation Control Measures (TCMs). EPA is taking these actions in accordance with section 110 and part D of the Clean Air Act (CAA).

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

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2013–0387. All documents in the docket are listed on

the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment.

**FOR FURTHER INFORMATION CONTACT:** Carl Young, Air Planning Section (6PD–L), telephone (214) 665–6645, email *young.carl@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

## Table of Contents

I. Background
II. Response to Comments
III. Final Action
IV. Statutory and Executive Order Reviews

## I. Background

The background for today's action is discussed in detail in our September 9, 2013 proposal (78 FR 55037). In that notice, we proposed to approve the following Texas SIP submittals for the HGB area:

- Attainment demonstration for the 1997 ozone NAAQS
- Revisions to the MECT air pollution control program
- Revisions to the HECT air pollution control program
- VMEP measures and TCMs
- A 2018 year MVEB
- Demonstration of RACM
- Contingency measures plan addressing a failure to attain the NAAQS by the applicable attainment date
- Revisions to the General Air Quality Definitions submitted by the State on June 10, 2005, August 16, 2007, April 6, 2010 and March 11, 2011.

In our proposal we noted that in order to approve the attainment demonstration for the area we must also approve the reasonable further progress (RFP) plan and the RFP contingency measures (78 FR 55037, 55038). In a separate action we are approving the RFP plan and the RFP contingency measures.[1]

Five commenters provided comments on our September 9, 2013 proposal. The comments we received can be accessed from the *www.regulations.gov* Web site (Docket No. EPA–R06–OAR–2013–0387). The discussion below addresses the comments we received on our proposed action.

## II. Response to Comments

*Comment:* We received four comments supportive of our proposal to approve the SIP revisions.

*Response:* We appreciate the supportive comments.

*Comment:* We received a comment that the relevance of the attainment demonstration must be evaluated against the 2008 ozone NAAQS of 75 ppb, not the 1997 ozone NAAQS of 84 ppb.

*Response:* We disagree that the relevance of the attainment demonstration must be evaluated against the 2008 ozone NAAQS. Clean Air Act section 182(b)(1) and 40 CFR 51.908 require an attainment demonstration for the 1997 ozone NAAQS. The attainment demonstration being approved specifically addresses this CAA requirement. Areas were designated for the 2008 ozone NAAQS in 2012 and the attainment demonstration and other planning provisions to address the area's nonattainment status for that standard are not yet due. We expect future SIP revisions for the HGB area, including the attainment demonstration, will be submitted to address the 2008 ozone NAAQS.

*Comment:* We received a comment from the Texas Commission on Environmental Quality (TCEQ) requesting that we not act on the revisions submitted for the HECT program in 30 TAC 101.396(b) and instead retain the current SIP-approved rule language. TCEQ noted that the revision to 30 TAC 101.396(b) conflicts with 30 TAC 115.722(c) and 30 TAC 115.761(c) and that they intend to consider technical corrections to 30 TAC 101.396(b) in future rulemaking.

*Response:* Given the TCEQ request we are not taking action on the revision to 30 TAC 101.396(b) at this time. The current SIP-approved language for 30 TAC 101.396(b) will therefore remain in effect and remove any concerns about conflicts with existing SIP-approved requirements at 30 TAC 115.722(c) and 115.761(c) as cited by the TCEQ. Further, the retention of the SIP-approved language at 30 TAC 101.396(b) will ensure the continued integrity of the HECT program and the HGB attainment demonstration. Table 1 below shows the current SIP-approved language that will be retained and the revision we are not taking action on for 30 TAC 101.396(b).

TABLE 1—SIP APPROVED LANGUAGE AND SUBMITTED REVISION TO 30 TAC 101.396(b)

| SIP Approved 30 TAC 101.396(b) that will be retained | Revision to 30 TAC 101.396(b) that we are not taking action on |
|---|---|
| The amount of HRVOC emissions from covered facilities shall be calculated for each hour of the year and summed to determine the annual emissions for compliance. For emissions from emissions events subject to the requirements of § 101.201 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements) or emissions from scheduled maintenance, startup, or shutdown activities subject to the requirements of § 101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements); the hourly emissions to be included in the summation shall not exceed the short-term limit of § 115.722(c) and § 115.761(c) of this title (relating to Site-wide Cap and Control Requirements; and Site-wide Cap). | (b) The amount of HRVOC emissions from applicable facilities will be calculated for each hour of the year and summed to determine the annual emissions for compliance. For emissions from scheduled maintenance, startup, or shutdown activities subject to the requirements of § 101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements), the hourly emissions to be included in the summation shall not exceed the short-term limit of § 115.722(c) and § 115.761(c) of this title (relating to Site-wide Cap and Control Requirements; and Site-wide Cap. |

[1] *See* docket EPA–R06–OAR–2010–0333 in *www.regulations.gov.*

*Comment:* One commenter who supported the proposal also urged us to work proactively with states to develop guidance on how to best account for exceptional events, particularly wildfires, and transport of emissions from Asia in future SIPs. The commenter further urged us to thoughtfully consider exceptional event and CAA 179B petitions from states affected by emissions that are beyond their control.

*Response:* While these matters are not relevant to the current action before us which is approving the HGB area SIP, we note that we will continue to actively work with states to address the general SIP related issues of exceptional events and international transport. In May 2013, we issued interim guidance on exceptional events and announced our intention to propose and finalize revisions to the 2007 Exceptional Events Rule (72 FR 13560, March 22, 2007). More information can be found on our exceptional events Web site located at *http://www.epa.gov/ttn/analysis/exevents.htm.*

CAA section 179B (International Border Areas), applies to nonattainment areas that are affected by emissions from outside the United States. For more discussion on section 179B, please see 78 FR 34178, 34204 (June 6, 2013 **Federal Register**) and 70 FR 71612, 71624 (November 29, 2005 **Federal Register**).

## III. Final Action

We are approving SIP submittals from the State of Texas for the HGB ozone nonattainment area submitted on April 6, 2010, and May 6, 2013. Specifically, we are approving the following Texas SIP submittals for the HGB area:

- Attainment demonstration for the 1997 ozone NAAQS
- Revisions to the MECT air pollution control program
- Revisions to the HECT air pollution control program
- VMEP measures and TCMs
- A 2018 year MVEB
- Demonstration of RACM
- Contingency measures plan addressing a failure to attain the NAAQS by the applicable attainment date

We are also approving the following SIP revisions to the General Air Quality Definitions submitted by the State on June 10, 2005, August 16, 2007, April 6, 2010 and March 11, 2011. Additionally, we are approving the revisions to the MECT and HECT program submitted on April 6, 2010, with the exception of the revision to 30 TAC 101.396(b). We are taking no action on revisions to 30 TAC 101.396(b).

We are approving these SIP revisions in accordance with section 110 and part D of the CAA.

## IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive 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 Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

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

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: December 19, 2013.

**Ron Curry,**

*Regional Administrator, Region 6.*

40 CFR Part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart SS—Texas

■ 2. In § 52.2270:

■ a. In paragraph (c), the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entries for Sections 101.1, 101.350,

101.351, 101.353, 101.390 through 101.394, 101.396, and 101.399 through 101.401.

■ b. In paragraph (e), the second table entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding a new entry to the end of the table for ''Houston-Galveston-Brazoria 1997 8-hour Ozone NAAQS Attainment Demonstration SIP and its MECT and HECT air pollution control program revisions, VMEP measures and TCMs, 2018 MVEB, RACM demonstration, and Failure to attain contingency measure plan''.

The revisions and additions read as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

| State citation | Title/subject | State approval/ submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Chapter 101—General Air Quality Rules** | | | | |
| **Subchapter A—General Rules** | | | | |
| Section 101.1 | Definitions | 3/11/2011 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| * | * | * | * | * |
| **Subchapter H—Emissions Banking and Trading** | | | | |
| * | * | * | * | * |
| **Division 3—Mass Emissions Cap and Trade Program** | | | | |
| Section 101.350 | Definitions | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.351 | Applicability | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| * | * | * | * | * |
| Section 101.353 | Allocation of Allowances | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| * | * | * | * | * |
| **Division 6—Highly-Reactive Volatile Organic Compound Emissions Cap and Trade Program** | | | | |
| Section 101.390 | Definitions | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.391 | Applicability | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.392 | Exemptions | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.393 | General Provisions | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.394 | Allocation of Allowances | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.396 | Allowance deductions | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | At the request of TCEQ EPA took no action on the revision to 101.396(b) submitted on 4/6/2010. Section 101.396(b) is the rule language submitted 12/1/2004 and approved 9/6/2006 (71 FR 52659). |
| Section 101.399 | Allowance Banking and Trading. | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.400 | Reporting | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| Section 101.401 | Level of Activity Certification. | 4/6/2010 | 1/2/2014 [Insert *FR* page number where document begins]. | |
| * | * | * | * | * |

* * * * *

(e) * * *

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

| Name of SIP provision | Applicable geographic or non-attainment area | State approval/ submittal date | EPA approval date | Comments |
|---|---|---|---|---|
| * * | * * | | * * | * |
| Houston-Galveston-Brazoria 1997 8-hour Ozone NAAQS Attainment Demonstration SIP and its MECT and HECT air pollution control program revisions, VMEP measures and TCMs, 2018 MVEB, RACM demonstration, and Failure to attain contingency measure plan. | Houston-Galveston-Brazoria, TX. | 4/6/2010 5/6/2013 | 1/2/2014 [Insert *FR* page number where document begins]. | |

[FR Doc. 2013–31247 Filed 12–31–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

**[EPA–HQ–SFUND–1990–0010; FRL 9903–67–Region 9]**

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the El Toro Marine Corps Air Station Superfund Site; Correction

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule; correction.

**SUMMARY:** The Environmental Protection Agency published in the **Federal Register** on November 19, 2013, a document concerning the National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the El Toro Marine Corps Air Station Superfund Site. Inadvertently, that publication included the incorrect docket number for this Site. This document corrects that error.

**DATES:** This correction is effective on January 21, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mary Aycock, U.S. EPA Remedial Project Manager, U.S. Environmental Protection Agency, Region IX; Telephone: (415) 972–3289; Fax: (415) 947–3528; Email: *Aycock.Mary@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The EPA published a document in the **Federal Register** on November 19, 2013 (78 FR 69302) that included the incorrect docket number for the National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the El Toro Marine Corps Air Station Superfund Site. This correction corrects the incorrect docket number published on November 19, 2013.

In rule FR Doc. 13–27724 published on November 19, 2013, (78 FR 69302) make the following corrections.

1. On page 69302, in the second column, correct the docket number for the National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the El Toro Marine Corps Air Station Superfund Site to read:

[EPA–HQ–SFUND–1990–0010; FRL 9902–79–Region 9]

2. On page 69302, in the third column, correct the first clause of the **ADDRESSES** caption to read:

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0010, by one of the following methods:

3. On page 69302, in the third column, correct the first sentence of the ''Instructions'' caption to read:

*Instructions:* Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0010.

Dated: December 19, 2013.

**Jared Blumenfeld,**

*Regional Administrator.*

[FR Doc. 2013–31265 Filed 12–31–13; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Parts 412, 482, 485, and 489

**[CMS–1599 & 1455–CN3]**

**RINs 0938–AR53 and 0938–AR73**

### Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status; Corrections

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

**ACTION:** Notification of correction to tables.

**SUMMARY:** This document corrects technical errors in the final rules that appeared in the August 19, 2013 **Federal Register** titled ''Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status.''

**DATES:** *Effective Date:* This correcting document is effective on January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Tzvi Hefter (410) 786–4487.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

In FR Doc. 2013–18956, which appeared in the August 19, 2013 **Federal Register** (78 FR 50496) entitled ''Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute

Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status'' (hereinafter referred to as the FY 2014 IPPS/LTCH PPS final rule), there were a number of technical and typographical errors. Therefore, in the October 3, 2013 **Federal Register** (78 FR 61197), we published a correcting document to correct those errors. The provisions of the correcting document were effective as if they had been included in the FY 2014 IPPS/LTCH PPS final rule that appeared in the August 19, 2013 **Federal Register**. Accordingly, those corrections were effective October 1, 2013.

We have learned of an additional technical error that appeared in FY 2014 IPPS/LTCH PPS final rule. Specifically, the wage data of provider 220153 in core-based statistical area (CBSA) 44140, Springfield, MA should not have been included in the wage index data. The inclusion of this data resulted in an error in the pre-reclassified, unadjusted wage index, which is used in the IPPS, for CBSA 44140 as well as to determine the LTCH PPS wage index, which is computed using wage data from inpatient acute care hospitals without regard to reclassification under section 1886(d)(8) or section 1886(d)(10) of the Act. Section 412.64(k) of the regulations provides for making midyear corrections to the wage index. Under this provision, we make a midyear correction to the wage index for an area only if a hospital can show that the—(1) intermediary or CMS made an error in tabulating its data; and (2) hospital could not have known about the error or did not have the opportunity to correct the error before the beginning of the Federal fiscal year (that is, October 1). A midyear correction to the wage index is effective prospectively from the date the change is made to the wage index rather than retroactively to the beginning of the Federal fiscal year, unless several conditions are met, including the requirement, under § 412.64(k)(2)(ii)(C), that CMS agreed before October 1st that the fiscal intermediary or CMS made an error in tabulating the hospital's wage data and the wage index should be corrected. CMS did not agree that there was an error in the IPPS wage index until after October 1, 2013; therefore, under the authority of § 412.64(k), the effective date of this correction is prospective, January 2, 2014. Furthermore, as the IPPS wage data is also used to compute the LTCH PPS wage index, these corrections will also apply prospectively to the LTCH PPS wage index as of January 2, 2014.

## II. Summary of Errors and Corrections to Tables Posted on the CMS Web Site

### *A. Errors in and Corrections to the IPPS Tables*

We are correcting the errors in the following IPPS tables that are listed on 78 FR 51002 of FY 2014 IPPS/LTCH PPS final rule and are available on the Internet on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/FY2014-IPPS-Final-Rule-Home-Page.html.*

In Table 2—Acute Care Hospitals Case-Mix Indexes for Discharges Occurring in Federal Fiscal Year 2012; Hospital Wage Indexes for Federal Fiscal Year 2014; Hospital Average Hourly Wages for Federal Fiscal Years 2012 (2008 Wage Data), 2013 (2009 Wage Data), and 2014 (2010 Wage Data); and 3-Year Average of Hospital Average Hourly Wages. We inadvertently included the wage data of provider 220153 in CBSA 44140, Springfield, MA in the FY 2014 wage index. Therefore, we are correcting Table 2 by removing the wage data for provider 220153.

In Table 3A—FY 2014 and 3-Year Average Hourly Wage for Acute Care Hospitals in Urban Areas by CBSA. We inadvertently included provider 220153 in the wage index of CBSA 44140. Therefore, we are correcting the FY 2014 average hourly wage and the 3-year average hourly wage for CBSA 44140, Springfield, MA by removing the wage data for provider 220153, and recomputing the FY 2014 average hourly wage and the 3-year average hourly wage for CBSA 44140.

### *B. Error in and Correction to a LTCH PPS Table*

We are also correcting the error in the following LTCH PPS table that is listed on 78 FR 51002 of the FY 2014 IPPS/LTCH PPS final rule and is available on the Internet on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/index.html.*

Table 12A—LTCH PPS Wage Index for Urban Areas for Discharges Occurring from October 1, 2013 through September 30, 2014. Due to a technical error found in the data of a provider in CBSA 44140, we are correcting the LTCH PPS wage index value for that CBSA.

## III. Waiver of Proposed Rulemaking and Delay of Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical errors in tables posted on the CMS Web site but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the tables posted on the CMS Web site accurately reflect the policies adopted in that final rule.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the FY 2014 IPPS/LTCH PPS final rule accurately reflects our payment methodologies, payment rates, and policies. Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, we are simply implementing correctly the payment methodologies and policies that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2014 IPPS/LTCH PPS final rule accurately reflects these payment methodologies and policies. Therefore, we believe we have good

cause to waive the notice and comment and effective date requirements.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 26, 2013.

**Oliver Potts,**

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

[FR Doc. 2013–31432 Filed 12–31–13; 8:45 am]

**BILLING CODE 4120–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Parts 413 and 424

**[CMS–1446–CN2]**

**RIN 0938–AR65**

## Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2014; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a technical error that appeared in the final rule published in the August 6, 2013 **Federal Register** entitled ''Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2014.''

**DATES:** *Effective Date:* This correction is effective January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** John Kane, (410) 786–0557.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On October 3, 2013, we published a correction notice (FR Doc. 2013–24080, 78 FR 61202) to correct a number of technical errors that appeared in the FY 2014 Skilled Nursing Facility Prospective Payment System (SNF PPS) final rule on August 6, 2013 (FR Doc. 2013–18776, 78 FR 47936). In this notice, we are correcting an additional technical error in the wage index values. Specifically, we have determined that in the process of developing the most recent hospital wage index, the wage data of a hospital in Core-Based Statistical Area (CBSA) 44140, Springfield, MA, was inadvertently included in that CBSA, though it should not have been included in the wage index data. Accordingly, we are removing the wage data for this provider from CBSA 44140. In Table A, ''FY 2014 Wage Index for Urban Areas Based on CBSA Labor Market Areas,'' we are revising the wage index value for CBSA 44140 Springfield, MA from 1.0378 to the corrected value of 1.0383, in order to reflect the removal of the hospital in question from the wage data for that CBSA. As we are revising the entry for only that one particular CBSA, we are not republishing the lengthy Table A in its entirety in this notice. We note that the corrected version of this table is available online on the SNF PPS Web site, at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/WageIndex.html.*

In a correction notice for inpatient prospective payment system (IPPS) hospitals and long-term care hospitals (LTCHs) that is being published concurrently in this issue of the **Federal Register** (Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status; Corrections (CMS–1599 & 1455–CN3)), we are making a similar midyear correction to the IPPS hospital wage index to reflect the removal of the wage index data of the hospital referenced above. As discussed in that correction notice, this IPPS wage index correction is being made prospectively. Since the implementation of the SNF PPS, we have used the pre-floor, pre-reclassified, no occupational mix IPPS hospital wage data in developing a wage index to be applied to SNFs. Thus, this correction will also apply prospectively to the SNF PPS wage index to conform the published SNF PPS wage index values to the corresponding, prospectively revised IPPS wage index values. We note that a more detailed discussion of the correction to the IPPS hospital wage index and its effective date is included in CMS–1599 & 1455–CN3 referenced above.

The correction in this document appears below in the ''Correction of Errors'' section. The provisions in this correction notice are effective as of January 2, 2014.

### II. Summary of Errors

The wage data of a hospital in CBSA 44140, Springfield, MA, was inadvertently included in that CBSA, though it should not have been included in the wage index data. In Table A, ''FY 2014 Wage Index for Urban Areas Based on CBSA Labor Market Areas,'' we are revising the wage index value for CBSA 44140 Springfield, MA from 1.0378 to the corrected value of 1.0383, in order to reflect the removal of the hospital in question from the wage data for that CBSA.

### III. Waiver of Proposed Rulemaking and Delayed Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefor in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document simply corrects a single technical error in Table A of the FY 2014 SNF PPS final rule, and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the information set forth in Table A of the FY 2014 SNF PPS final rule (and posted on the CMS Web site) accurately reflects the policies adopted in that final rule.

In addition, even if this correcting document were a rule to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the correction in this document into the final rule or delaying the effective date would be contrary to the public interest, because it is in the public's interest for providers to receive appropriate SNF PPS payments in as timely a manner as possible and to ensure that the FY 2014 SNF PPS final

rule accurately reflects our payment methodologies, payment rates, and policies. Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, are simply implementing correctly the payment methodologies and policies that we previously proposed, received comment on, and subsequently finalized. This correction document is intended solely to ensure that the FY 2014 SNF PPS final rule accurately reflects these payment methodologies and policies. Therefore, we find good cause to waive notice and comment procedures, as well as the 30-day delay in effective date.

## IV. Correction of Errors

In FR Doc. 2013–18776 (78 FR 47936), make the following correction:

A. Correction to the Addendum

1. On page 47976, in column 3 of Table A, the entry ''1.0378'' for CBSA 44140 Springfield, MA is corrected to read ''1.0383''.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 23, 2013.

**Oliver Potts,**

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

[FR Doc. 2013–31435 Filed 12–31–13; 8:45 am]

BILLING CODE 4120–01–P

# Proposed Rules

Federal Register

Vol. 79, No. 1

Thursday, January 2, 2014

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2013–0425; Directorate Identifier 2012–NM–224–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** We are revising an earlier proposed airworthiness directive (AD) for certain The Boeing Company Model 747 airplanes. The NPRM proposed to require repetitive inspections for cracking in the bulkhead splice fitting, frame supports, forward and aft inner chords, and floor support; an inspection for cracking in the bulkhead upper web, doubler, and bulkhead lower web; and corrective actions if necessary; for certain airplanes, inspections for cracking in the repaired area of the bulkhead, and corrective actions if necessary; for certain airplanes, support frame modification and support frame inspections, and related investigative and corrective actions, if necessary; for certain airplanes, repetitive support frame post-modification inspections and inspections for cracking in the hinge support, and related investigative and corrective actions if necessary; for certain airplanes, a one-time inspection of the frame web and upper shear deck (floor support) chord aft side for fasteners; and a one-time inspection of the upper forward inner chord, frame support fitting and splice fitting, for the installation of certain fasteners; and related investigative and corrective actions if necessary; for certain airplanes, a one-time inspection of the upper forward inner chord, frame support fitting and splice fitting for the installation of certain fasteners; a one-time inspection for any repair installed on the left and right side of the aft inner chord, and related investigative and corrective actions, if necessary; for certain airplanes, a one-time inspection of the support frame outer chords for cracking, and repair if necessary; and repetitive support frame post-repair inspections, and corrective actions, if necessary. The NPRM was prompted by reports of cracking in the forward and aft inner chord of the body station (BS) 2598 bulkhead near the upper corners of the cutout for the horizontal stabilizer rear spar, and cracking in the bulkhead upper and lower web panels near the inner chord to shear deck connection. This action revises the NPRM by adding an optional terminating action for certain inspections and expanding the inspection area for certain surface and open-hole HFEC inspections. We are proposing this supplemental NPRM (SNPRM) to detect and correct fatigue cracking of the BS 2598 bulkhead structure, which could adversely affect the structural integrity of the bulkhead and the horizontal stabilizer support structure and result in loss of controllability of the airplane. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

**DATES:** We must receive comments on this SNPRM by February 18, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0425; Directorate Identifier 2012–NM–224–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

### Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would

apply to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category. The NPRM published in the **Federal Register** on May 28, 2013 (78 FR 31867). The NPRM proposed to require repetitive inspections for cracking in the bulkhead splice fitting, frame supports, forward and aft inner chords, and floor support; doing an inspection for cracking in the bulkhead upper web, doubler, and bulkhead lower web; and corrective actions if necessary; for certain airplanes, inspections for cracking in the repaired area of the bulkhead, and corrective actions if necessary; for certain airplanes, support frame modification and support frame inspections, and related investigative and corrective actions, if necessary; for certain airplanes, repetitive support frame post-modification inspections and inspections for cracking in the hinge support, and related investigative and corrective actions if necessary; for certain airplanes, a one-time inspection of the frame web and upper shear deck (floor support) chord aft side for fasteners; and a one-time inspection of the upper forward inner chord, frame support fitting and splice fitting, for the installation of certain fasteners; and related investigative and corrective actions if necessary; for certain airplanes, a one-time inspection of the upper forward inner chord, frame support fitting and splice fitting for the installation of certain fasteners; a one-time inspection for any repair installed on the left and right side of the aft inner chord, and related investigative and corrective actions, if necessary; for certain airplanes, a one-time inspection of the support frame outer chord for cracking, and repair if necessary; and repetitive support frame post-repair inspections, and corrective actions, if necessary.

**Actions Since Previous NPRM (78 FR 31867, May 28, 2013) Was Issued**

Since we issued the NPRM (78 FR 31867, May 28, 2013), we have received Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, which extends the open-hole HFEC inspection for cracking to include more fastener holes common to the upper and lower splice fittings on both sides of the bulkhead, plus some additional fastener holes adjacent to the lower splice fitting. Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, also extends the surface HFEC inspection for cracking to include the fillet radius area of the upper splice fitting. Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, clarifies compliance times for the initial surface HFEC inspection of the upper web for airplanes modified or repaired before the upper web inspection was added. Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, also adds an optional terminating modification for certain inspections.

**Comments**

We gave the public the opportunity to comment on the NPRM (78 FR 31867, May 28, 2013). The following presents the comments received on the NPRM (78 FR 31867, May 28, 2013) and the FAA's response to each comment.

**Request To Replace the NPRM (78 FR 31867, May 28, 2013)**

Atlas Air, Inc. requested that the NPRM (78 FR 31867, May 28, 2013) be replaced with four separate ADs. The commenter stated that having a separate AD for Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013; Boeing Service Bulletin 747–53A2449, Revision 2, dated March 14, 2002; Boeing Alert Service Bulletin 747–53A2467, Revision 1, dated April 28, 2005; and Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011; would simplify the requirements and future supersedures. The commenter also stated that separate ADs will ease the burden on the operators.

We disagree with replacing the NPRM (78 FR 31867, May 28, 2013). Increasing the number of ADs to four does not necessarily ease the operator burden. We find that delaying this action to resubmit as a separate AD, would be inappropriate in light of the urgency of the identified unsafe condition. No changes have been made to this SNPRM in this regard.

**Request for Alternative Method of Compliance (AMOC) Approval for Previously Approved AMOCs**

Atlas Air, Inc. requested that AMOCs approved for paragraphs (i), (j), (m), (n), (o), (p), (q), (r), (s), (t), (u), and (v), of AD 2010–14–07 (75 FR 38001, July 1, 2010), be approved as AMOCs to the corresponding actions of the NPRM (78 FR 31867, May 28, 2013).

We agree with the request. Although the actions in some of the paragraphs referenced above carry over to paragraphs (g), (h), (i), (j), (k), and (l) of this SNPRM, AD 2010–14–07 (75 FR 38001, July 1, 2010) was superseded and added new inspections and requirements, for which previously approved AMOCs would not provide coverage. We have added new paragraph (q)(4) to this SNPRM stating that previously approved AMOCs for AD 2010–14–07 are approved for the corresponding actions in this SNPRM. All actions specified in paragraphs (g), (h), (i), (j), (k), and (l) of this SNPRM that are not identified in the AMOC must still be done.

**Request Authorization of Modification in Boeing Service Bulletin 747–53A2837 as an AMOC to Requirements of Paragraphs (j), (k), and (l) of the NPRM (78 FR 31867, May 28, 2013)**

Atlas Air, Inc. requested that the NPRM (78 FR 31867, May 28, 2013) be revised to authorize the modification in Boeing Service Bulletin 747–53A2837 as an AMOC to the requirements of paragraphs (j), (k), and (l) of the NPRM.

We agree with the request. Boeing Service Bulletin 747–53A2837, dated July 13, 2012, was approved as an AMOC to AD 2010–14–07 (75 FR 38001, July 1, 2010). Accomplishing the modification of the bulkhead at BS 2598, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2837, dated July 13, 2012, terminates the requirements of paragraphs (g), (h), (i), (j), (k), and (l) of this AD. We have added new paragraph (n) to this SNPRM to provide this optional terminating modification.

**Request for Clarification of Language in Paragraph (g) of the NPRM (78 FR 31867, May 28, 2013)**

Boeing requested that we delete the phrase, ''and doubler,'' and add the word, ''assembly'' to bulkhead upper web and bulkhead lower web in paragraph (g) of the NPRM (78 FR 31867, May 28, 2013). Boeing stated that the language in Boeing Alert Service Bulletin 747–53A2427, Revision 6, dated July 14, 2011, was in error and this requested change clarifies the NPRM to match the intent of this service bulletin.

We agree to clarify the language and have made the requested changes to paragraph (g) of this SNPRM accordingly.

**Request for Clarification of Language in Paragraph (m)(5) and (m)(6) of the NPRM (78 FR 31867, May 28, 2013)**

Boeing requested that we add the phrase ''bonded web'' to the word ''doubler'' in paragraphs (m)(5) and (m)(6) of the NPRM (78 FR 31867, May 28, 2013). Boeing stated that the language in Boeing Alert Service Bulletin 747–53A2427, Revision 6, dated July 14, 2011, was in error and this requested change clarifies the

NPRM to match the intent of this service bulletin. Boeing also requested that we add the phrase ''if present'' to paragraph (m)(6) of the NPRM.

We agree to clarify the language and have made the requested changes to paragraphs (m)(5) and (m)(6) of this SNPRM accordingly. We have also added the phrase ''if present'' to paragraph (m)(6) of this SNPRM.

**Request To Correct Compliance Time**

Boeing requested that we correct the compliance time specified in paragraph (m)(2) of the NPRM (78 FR 31867, May 28, 2013) to be from the effective date of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010). Boeing Alert Service Bulletin 747–53A2427, Revision 6, dated July 14, 2011, was not mandated by AD 2006–05–06, Amendment 39–14503 (71 FR 12125, March 9, 2006).

We agree with the request and have made the change to paragraph (m)(2) of this SNPRM accordingly.

**Other Changes to SNPRM**

We have updated paragraphs (c), (g), (h), (i), (m), and (o) of this SNPRM to refer to Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013. We have also added the area of the upper and lower web panels to the open hole and surface HFEC inspections specified in paragraph (g) of this SNPRM. We have clarified the affected airplanes for paragraph (g) of this SNPRM by qualifying the airplanes to those on which an interim modification or aft inner chord repair has not been done, as specified in Boeing Alert Service Bulletin 747–53A2427. We have also provided credit for Boeing Alert Service Bulletin 747–53A2427, Revision 6, dated July 14, 2011, provided that the additional actions added in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, are done within the applicable compliance times specified in paragraphs (g), (h), and (i) of this SNPRM.

**FAA's Determination**

We are proposing this SNPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs. Certain changes described above expand the scope of the NPRM (78 FR 31867, May 28, 2013). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

**Proposed Requirements of the SNPRM**

This SNPRM would require accomplishing the actions specified in the service information described previously.

**Costs of Compliance**

We estimate that this proposed AD affects 184 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 49 work-hours × $85 per hour = $4,165 per inspection cycle. | $0 | $4,165 per inspection cycle | $766,360 per inspection cycle. |
| Support frame modification | 315 work-hours × $85 per hour = $26,775. | $0 | $26,775 | Up to $4,926,600. |
| Support frame upper corner fastener inspection. | 16 work-hours × $85 per hour = $1,360. | $0 | $1,360 | Up to $250,240. |
| Support frame post-modification inspection. | 200 work hours × $85 per hour = $17,000. | $0 | $17,000 | $3,128,000. |

We estimate the following costs to do any necessary interim modification that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need this interim modification:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Interim modification | 4 work-hours × $85 per hour = $340 | $0 | $340 |

We have received no definitive data that would enable us to provide a cost estimate for the corrective actions specified in this proposed AD.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**The Boeing Company:** Docket No. FAA–2013–0425; Directorate Identifier 2012–NM–224–AD.

**(a) Comments Due Date**

We must receive comments by February 18, 2014.

**(b) Affected ADs**

This AD affects AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010).

**(c) Applicability**

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013.

**(d) Subject**

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Unsafe Condition**

This AD was prompted by reports of cracking in the forward and aft inner chord of the body station (BS) 2598 bulkhead near the upper corners of the cutout for the horizontal stabilizer rear spar, and cracking in the bulkhead upper and lower web panels near the inner chord to shear deck connection. We are issuing this AD to detect and correct fatigue cracking of the BS 2598 bulkhead structure, which could adversely affect the structural integrity of the bulkhead and the horizontal stabilizer support structure and result in loss of controllability of the airplane.

**(f) Compliance**

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

**(g) Inspections of the Bulkhead (Support Frame)**

For airplanes on which the bulkhead (support frame) modification specified in Boeing Service Bulletin 747–53A2473 or 747–53A2837 has not been accomplished, and on which an interim modification or aft inner chord repair has not been done as specified in Boeing Alert Service Bulletin 747–53A2427: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as provided by paragraph (m)(1), (m)(2), or (m)(3) of this AD, as applicable, do an open-hole and surface high frequency eddy current (HFEC) inspection for cracking in the bulkhead (support frame), which includes the bulkhead splice fitting, frame supports, forward and aft inner chords, floor supports, and upper and lower web panels; do a surface HFEC inspection for cracking in the bulkhead upper web assembly; do an open-hole and surface HFEC inspection for cracking in the bulkhead lower web assembly; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as required by paragraphs (m)(4), (m)(5) and (m)(6) of this AD, and except as provided by paragraph (h) of this AD. Do all applicable corrective actions before further flight. Repeat the applicable inspections, thereafter, at the applicable times in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013. Doing the modification required by paragraph (j) of this AD terminates the repetitive inspections required by this paragraph.

**(h) Interim Modification**

For airplanes in groups 1 and 2, as identified in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, on which no cracking was found during any inspection required by paragraph (g) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as provided by paragraph (m)(2) of this AD, do the interim modification, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013. Doing the interim modification terminates the repetitive inspections requirement of paragraph (g) of this AD in the area of the modification only. The repetitive inspections of the bulkhead lower web, as specified in paragraph (g) of this AD, must be done. If the aft inner chord repair or upper web repair specified in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, has been accomplished, an interim modification on the side of the airplane that has the repair is not required by this paragraph.

**(i) Post-Repair Inspection or Post-Interim Modification Inspection**

For airplanes on which an interim modification, or aft inner chord repair, or upper web repair has been done as specified in paragraph (g) or (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as specified in paragraph (m)(1), (m)(2), or (m)(3) of this AD, as applicable, do the actions specified in paragraph (i)(1) and (i)(2) of this AD, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as required by paragraph (m)(4) of this AD. Do all applicable corrective actions before further flight. Repeat the inspections thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013. Doing the modification required by paragraph (j) of this AD terminates the repetitive inspections required by this paragraph.

(1) Do forward side surface HFEC inspections for cracking of the bulkhead forward inner chord, splice fitting, and frame support.

(2) Do surface and open-hole HFEC inspections for cracking in the repaired and modified areas of the bulkhead, as applicable.

**(j) Bulkhead (Support Frame) Modification and Inspections**

For airplanes on which the bulkhead (support frame) modification specified in Boeing Service Bulletin 747–53A2473, dated March 24, 2005; Revision 1, dated February 20, 2007; Revision 2, dated August 28, 2009; Revision 3, dated July 14, 2011; or Revision 4, dated December 1, 2011; has not been done as of the effective date of this AD: At the applicable time in tables 2 and 3 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do the bulkhead (support frame) modification and inspections and all applicable related investigative and corrective actions; in accordance with steps 3.B.3., 3.B.4., and 3.B.5. of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4) of this AD. Do all applicable related investigative and corrective actions before further flight. Doing the modification in this paragraph terminates the inspections required by paragraphs (g) and (i) of this AD.

**(k) Post Modification Inspections**

(1) For airplanes on which the bulkhead (support frame) modification has been done as specified in Boeing Service Bulletin 747–53A2473, dated March 24, 2005; Revision 1, dated February 20, 2007; Revision 2, dated August 28, 2009; Revision 3, dated July 14, 2011; or Revision 4, dated December 1, 2011:

Except as provided by paragraphs (m)(7) and (m)(8) of this AD, at the applicable time in tables 6, 7, 8, and 9 of paragraph 1.E., ''Compliance'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do support frame post-modification inspections, and open-hole HFEC inspections for cracking in the hinge support, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4). Do all applicable related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times in tables 6, 7, 8, and 9 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(2) For airplanes on which the support frame modification has been done as specified in Boeing Service Bulletin 747–53A2473, Revision 1, dated February 20, 2007: Except as specified in paragraphs (m)(7) and (m)(8) of this AD, at the applicable time in tables 4 and 5 of paragraph 1.E., ''Compliance'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a one-time general visual inspection of the frame web and upper shear deck (floor support) chord aft side for fasteners that were installed as part of an inner chord repair removal; and a one-time general visual inspection of the upper forward inner chord, frame support fitting and splice fitting, for the installation of certain fasteners; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4) of this AD. Do all applicable related investigative and corrective actions at the applicable times specified in tables 4 and 5 of paragraph 1.E., ''Compliance'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(3) For airplanes on which the support frame modification has been done as specified in Boeing Service Bulletin 747–53A2473, dated March 24, 2005: Except as specified in paragraphs (m)(7) and (m)(8) of this AD, at the applicable time in tables 5 and 10 of paragraph 1.E., ''Compliance'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a one-time general visual inspection of the upper forward inner chord, frame support fitting, and splice fitting for the installation of certain fasteners; a one-time general visual inspection for any repair installed on the left and right side of the aft inner chord; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4) of this AD. Do all applicable related investigative and corrective actions at the applicable times specified in tables 5 and 10 of paragraph 1.E., ''Compliance'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(4) For airplanes on which a post-modification inspection was done in accordance with paragraph 3.B.8. of Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 3, dated July 14, 2011: Except as required by paragraphs (m)(7) and (m)(8) of this AD, at the applicable time in table 11 of paragraph 1.E., ''Compliance'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a one-time surface HFEC inspection of the support frame outer chord for cracking, in accordance with Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011. If any cracking is found, repair before further flight, using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

**(l) Post-Modification Post-Repair Inspections**

For airplanes on which post-modification inspection cracks were repaired by doing the installation of an upper or lower corner post-modification web crack repair as specified in Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011: At the applicable times specified in tables 6 and 8 of paragraph 1.E., ''Compliance'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a bulkhead (support frame) post-repair inspection, and do all applicable corrective actions, in accordance with paragraph a., b., or c. of Part 4 of paragraph 3.B.8 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, as applicable, except as required by paragraph (m)(4) of this AD. Repeat the inspection, thereafter, at the applicable times specified in tables 6 and 8 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

**(m) Exceptions**

(1) Where Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies a compliance time after the date on Revision 2 of this service bulletin, this AD requires compliance within the specified compliance time as of August 28, 2001 (the effective date of AD 2001–15–03, Amendment 39–12337 (66 FR 38365, July 24, 2001)).

(2) Where Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies a compliance time after the date on Revision 4 of this service bulletin, this AD requires compliance within the specified compliance time as of August 5, 2010 (the effective date of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010)).

(3) Where Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies a compliance time after the date on Revision 6 or Revision 7 of this service bulletin, this AD requires compliance within the specified compliance time ''after the effective date of this AD.''

(4) If any cracking is found during any inspection required by this AD, and Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013; or Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011; specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

(5) If, during any inspection required by paragraph (g) of this AD, any cracking is found in the bonded web doubler, before further flight, repair, using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

(6) Where Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies accomplishing inspections for cracks for forward and aft inner chords, splice fittings, floor supports, and upper and lower web panels, this AD also requires doing an open-hole HFEC inspection of the bonded web doubler if present.

(7) Where Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, specifies a compliance time after the date on Revision 2 of that service bulletin, this AD requires compliance within the specified compliance time as of August 5, 2010 (the effective date of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010)).

(8) Where Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, specifies a compliance time after the date on Revision 3 or 4 of that service bulletin, this AD requires compliance within the specified compliance time ''after the effective date of this AD.''

**(n) Optional Termination Modification**

Accomplishing the modification of the bulkhead at body station 2598, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2837, dated July 13, 2012, terminates the requirements of paragraphs (g), (h), (i), (j), (k), and (l) of this AD, except where Boeing Service Bulletin 747–53A2837, dated July 13, 2012, specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

**(o) Terminating Action for Certain Requirements of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010)**

(1) Accomplishing the inspections, repairs, and modification in accordance with Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, is a terminating action for the corresponding inspections, repairs, and modification at the STA 2598 support frame required by paragraphs (i), (j), (k), (1), (m), (n), (o), (p), (q), (r), (s), (t), (u), and (v) of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010). Where Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, specifies to contact Boeing for repair instructions, the repair instructions must be approved by the FAA in accordance with paragraph (q) of this AD. All provisions of AD 2010–14–07 that are not specifically referenced in this paragraph remain fully applicable and must be complied with.

(2) Accomplishing the inspections, repairs and interim modification in accordance with Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, is a terminating action for the corresponding inspections, repairs and interim modification at the STA 2598 bulkhead required by paragraphs (i), (j), (o), (s), (t), (u), and (v) of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010). When Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies to contact Boeing for repair data, the repair data must be approved by the FAA in accordance with paragraph (q) of this AD. All provisions of AD 2010–14–07 that are not specifically referenced in this paragraph remain fully applicable and must be complied with.

**(p) Credit for Previous Actions**

This paragraph provides credit for the actions required by paragraphs (g), (h), (i), and (n)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2427, Revision 6, dated July 14, 2011, provided that the additional actions added in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, are done within the applicable compliance times specified in paragraphs (g), (h), and (i) of this AD.

**(q) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (r)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(4) Related portions or applicable paragraphs of AMOCs approved previously for AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010), are approved as AMOCs for the related corresponding provisions of paragraphs (g), (h), (i), (j), (k), and (l) of this AD. All new actions specified in paragraphs (g), (h), (i), (j), (k), and (l) of this AD that are not identified in the AMOCs must still be done.

**(r) Related Information**

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

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

Issued in Renton, Washington, on December 20, 2013.

**Jeffrey E. Duven,**

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

[FR Doc. 2013–31315 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2013–1069; Directorate Identifier 2013–NM–197–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This proposed AD was prompted by a determination that for certain slat system jam-disconnect failure cases, the resulting slat skew could lead to failure of the eccentric pin at the slat track attachment. If the pin migrates out of the attachment lugs, this could cause certain slat panels to disconnect from the wing. This proposed AD would require replacing certain locking plates with certain anti-migration assemblies on certain left and right wing slats. We are proposing this AD to prevent failure of the eccentric pins at the slat track attachment, and consequent slat panels disconnecting from the wing, leading to the loss of the airplane.

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

**ADDRESSES:** You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1069; Directorate Identifier 2013–NM–197–AD'' at the beginning of your comments. We specifically invite

comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

**Discussion**

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, has issued Canadian Airworthiness Directive CF–2013–31, dated October 8, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It was discovered that for certain slat system jam-disconnect failure cases, the resulting slat skew could lead to failure of the eccentric pin at the slat track 3–3 attachment. If the pin migrates out of the attachment lugs, this could cause the No. 3 slat panels to disconnect from the wing and could lead to the loss of the aeroplane.
>
> This [TCCA] AD mandates the replacement of the locking plate with an anti-migration assembly on both the left and right No. 3 slats.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1069.

**Relevant Service Information**

Bombardier, Inc. has issued Bombardier Service Bulletin 670BA–27–066, dated June 10, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

**FAA's Determination and Requirements of This Proposed AD**

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

**Costs of Compliance**

We estimate that this proposed AD affects 401 airplanes of U.S. registry.

We also estimate that it would take about 9 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $780 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $619,545, or $1,545 per product. According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Bombardier, Inc.:** Docket No. FAA–2013–1069; Directorate Identifier 2013–NM–197–AD.

**(a) Comments Due Date**

We must receive comments by February 18, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc. airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10002 through 10335 inclusive.

(2) Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Bombardier, Inc. Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 through 15293 inclusive.

(3) Bombardier, Inc. Model CL–600–2E25 (Regional Jet Series 1000) airplanes, serial numbers 19002 through 19036 inclusive.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a determination that for certain slat system jam-disconnect failure cases, the resulting slat skew could lead to failure of the eccentric pin at the slat track attachment. If the pin migrates out of the attachment lugs, this could cause certain slat panels to disconnect from the wing. We are issuing this AD to prevent failure of the eccentric pins at the slat track attachment, and consequent slat panels disconnecting

from the wing, leading to the loss of the airplane.

**(f) Compliance**

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**(g) Replacement**

Within 6,000 flight hours or 30 months, whichever occurs first, after the effective date of this AD: Remove and replace the locking plate having part number (P/N) CC670–12076–1 with an anti-migration assembly having P/N CC670–12370–1, on both the left and right number 3 slats, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–066, dated June 10, 2013.

**(h) Parts Installation Prohibition**

As of the effective date of this AD, no person may install any locking plate having P/N CC670–12076–1 on any airplane.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–31, dated October 8, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1069.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com*. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 20, 2013.

**Jeffrey E. Duven,**

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

[FR Doc. 2013–31300 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2013–1070; Directorate Identifier 2013–NM–175–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), CL–600–2D15 (Regional Jet Series 705), CL–600–2D24 (Regional Jet Series 900), and CL–600–2E25 (Regional Jet Series 1000) airplanes. This proposed AD was prompted by the finding of an uncertified main landing gear (MLG) inboard retraction actuator bracket pin installed on an in-service airplane, which could result in pin failure. This proposed AD would require inspection of the MLG inboard retraction actuator bracket for a part number, and replacement if necessary. We are proposing this AD to detect and correct uncertified pins in the MLG inboard retraction actuator bracket, which could result in pin failure, leading to an MLG extension without damping, and a potential for MLG structural damage and possible collapse during landing.

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

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Luke Walker, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE 171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7363; fax 516–794–5531.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1070; Directorate Identifier 2013–NM–175–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

## Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–23, dated August 13, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> An uncertified main landing gear (MLG) inboard retraction actuator bracket pin, part number (P/N) 49131–1, was found installed on an in-service aeroplane. Five other uncertified pins were also returned to the manufacturer. The uncertified pin, P/N 49131–1, is weaker than the approved pin, P/N 49131–3. An MLG inboard retraction actuator bracket pin failure could result in an MLG extension without damping, and a potential for MLG structural damage and possible collapse during landing.
>
> This [TCCA] AD mandates the inspection for and removal of the uncertified pins.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1070.

## Relevant Service Information

Bombardier has issued Service Bulletin 670BA–32–044, dated May 29, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

## FAA's Determination and Requirements of This Proposed AD

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

## Costs of Compliance

We estimate that this proposed AD affects 416 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $35,360, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $0, for a cost of $85 per product. We have no way of determining the number of aircraft that might need this action.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Bombardier, Inc.:** Docket No. FAA–2013–1070; Directorate Identifier 2013–NM–175–AD.

**(a) Comments Due Date**

We must receive comments by February 18, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial number (S/N) 10002 and subsequent.

(2) Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705); and CL–600–2D24 (Regional Jet Series 900) airplanes; S/N 15001 and subsequent.

(3) Bombardier, Inc. Model CL–600–2E25 (Regional Jet Series 1000) airplanes, S/N 19001 and subsequent.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by the finding of an uncertified main landing gear (MLG) inboard retraction actuator bracket pin installed on an in-service airplane, which could result in pin failure. We are issuing this AD to detect and correct uncertified pins in the MLG inboard retraction actuator bracket, which could result in pin failure, leading to an MLG extension without damping, and a potential for MLG structural damage and possible collapse during landing.

**(f) Compliance**

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**(g) Inspection**

Within 6,600 flight hours or 36 months after the effective date of this AD, whichever

occurs first, do an inspection of the MLG inboard retraction actuator bracket for any uncertified pin having part number (P/N) 49131–1, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–044, dated May 29, 2013.

**(h) Replacement**

If any uncertified pin having P/N 49131–1 is found during the inspection required by paragraph (g) of this AD, before further flight, replace all uncertified pins, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–044, dated May 29, 2013.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANE–170, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7363; fax 516–794–5531, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the NYACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information Canadian Airworthiness Directive CF–2013–23, dated August 13, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1070.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 20, 2013.

**Jeffrey E. Duven,**

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

[FR Doc. 2013–31301 Filed 12–31–13; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2013–1090; Directorate Identifier 2013–SW–017–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter France Helicopters

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Eurocopter France (Eurocopter) Model EC120B and EC130B4 helicopters. This proposed AD would require replacing parts of the sliding door star support attachment assembly, depending on the outcome of required inspections. This proposed AD is prompted by a report that passengers in a Eurocopter helicopter were forced to exit through the pilot door after landing because they could not open the sliding door from the inside. The proposed actions are intended to prevent failure of the sliding door star support attachment, which could inhibit operation of a sliding door from inside, delaying the evacuation of passengers during an emergency.

**DATES:** We must receive comments on this proposed AD by March 3, 2014.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this

proposal in light of the comments we receive.

**Discussion**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2013–0093, dated April 15, 2013, and corrected on April 17, 2013. EASA issued AD No. 2013–0093 to correct an unsafe condition for Eurocopter Model EC120B and EC130B4 helicopters after a case was reported where passengers could not open a helicopter's sliding door after landing. An investigation revealed a failure of the sliding door star axle support, EASA states.

''This condition, if not corrected, could delay the evacuation from the helicopter in case of emergency, possibly resulting in injury to the occupants,'' according to EASA. As a result, EASA AD No. 2013–0093 requires inspecting the upper and lower locking pin control rod end fittings to determine if they are twisted or broken and replacing the end fittings if they are twisted or broken. If the end fittings are not twisted or broken, the EASA AD requires performing a dye penetrant inspection of the star support pin and then reinforcing the sliding door star support with carbon fabric plies soaked with adhesive.

**FAA's Determination**

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

**Related Service Information**

Eurocopter issued Alert Service Bulletin (ASB) No. EC120–52A014 for Model EC120B helicopters and ASB No. EC130–52A009 for Model EC130B4 helicopters, both Revision 1, and both dated January 25, 2013. The ASBs report that the star support pin ruptured on the kinematics of the sliding door locking system. The rupture prevents sliding doors from operating, the ASBs report. The ASBs call for visual and dye penetrant inspections of sections of the sliding door attachment assembly and reinforcement of the sliding door star support.

**Proposed AD Requirements**

This proposed AD would require, within 165 hours time-in-service, visually inspecting the upper and lower locking pin control rod end fittings, and replacing the control end fitting before further flight if it is bent, twisted, or broken. This proposed AD would also require cleaning and dye penetrant inspecting the star support pin for a crack, and replacing the star support pin before further flight if there is a crack. Lastly, this proposed AD would require reinforcing the sliding door star support stringer by installing three carbon fabric plies.

**Costs of Compliance**

We estimate that this proposed AD would affect 284 helicopters of U.S. Registry and that labor costs average $85 per work-hour. Based on these estimates, we would expect the following costs:

- Visually inspecting the upper and lower locking pin control rod end fittings would require 1 work-hour and a minimal amount for consumable materials for a cost of $85 per helicopter, or $24,140 for the U.S. fleet.
- Replacing the upper and lower locking pin control rod end fittings with airworthy fittings would require 5 work-hours for a labor cost of $425. Parts would cost $242 for a cost of $667 per helicopter.
- Dye penetrant inspecting the star support pin for a crack would require 2 work-hours and no parts for a cost of $170 per helicopter.
- Replacing the star support pin would require 5 work-hours. Parts would cost $200 for a total cost of $625 per helicopter.
- Installing three carbon fabric plies to reinforce the sliding door star support would require 5 work-hours. Parts would cost $200 for a total cost of $625 per helicopter.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed, I certify this proposed regulation:

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Eurocopter France:** Docket No. FAA–2013–1090; Directorate Identifier 2013–SW–017–AD.

**(a) Applicability**

This AD applies to the following Eurocopter France (Eurocopter) helicopters, certificated in any category, except those helicopters with modification 07 3796 or 07 2921 installed:

(a) Model EC120B helicopters, serial numbers up to and including 1367, with a sliding door, Part Number (P/N) C526A2370101, installed; and

(b) Model EC130B4 helicopters with a sliding door, P/N C526S1101051, installed.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a failure of the sliding door star axle support. This condition could prevent operation of a sliding door from inside, which could delay evacuation of passengers during an emergency.

**(c) Comments Due Date**

We must receive comments by March 3, 2014.

**(d) Compliance**

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

**(e) Required Actions**

Within 165 hours time-in-service:

(1) Visually inspect each upper and lower locking pin control rod end fitting (control end fitting) for a bend, twist, or breakage. If a control end fitting is bent, twisted, or broken, before further flight, replace the control end fitting with an airworthy control end fitting.

(2) Clean and dye penetrant inspect the star support pin for a crack in the areas identified as Zone X and Zone Y in Figure 3 of Eurocopter Alert Service Bulletin (ASB) No. EC120–52A014 or ASB No. EC130–52A009, both Revision 1, and both dated January 25, 2013, as applicable to your model helicopter. If there is a crack in the star support pin, before further flight, replace the star support pin with an airworthy star support pin.

(3) Reinforce the sliding door star support stringer by installing three carbon fabric plies by following the Accomplishment Instructions, paragraph 3.B.2.d, of ASB No. EC120–52A014 or ASB No. EC130–52A009, as applicable to your model helicopter, except this AD does not require you to comply with paragraph 3.C.

**(f) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

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

**(g) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD 2013–0093, dated April 15, 2013. You may view the EASA AD in Docket No. FAA–2013–1090 on the Internet at *http://www.regulations.gov.*

**(h) Subject**

Joint Aircraft Service Component (JASC) Code: 5220, Emergency Exits.

Issued in Fort Worth, Texas, on December 18, 2013.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate,Aircraft Certification Service.*

[FR Doc. 2013–31298 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2013–1068; Directorate Identifier 2013–NM–196–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This proposed AD was prompted by reports of failure of the high pressure shutoff valves (HPSOVs) causing the timer and monitor unit (TMU) to become inoperative since the HPSOV and the TMU are on the same circuit breaker. This proposed AD would require a wiring modification to segregate the HPSOV power supply from the TMU. We are proposing this AD to prevent an inoperative TMU, which could result in the loss of the automatic de-icing mode, and lead to an increased workload for the flight crew and loss of control of the airplane.

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

**ADDRESSES:** You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1068; Directorate Identifier 2013–NM–196–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

**Discussion**

Transport Canada Civil Aviation (TCCA), which is the aviation authority

for Canada, has issued Canadian Airworthiness Directive CF–2013–27, dated September 25, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

There have been several in-service reports of the failure of high pressure shutoff valves (HPSOV) causing the Timer and Monitor Unit (TMU) to become inoperative since the HPSOV and TMU are on the same circuit breaker.

An inoperative TMU would result in the loss of the automatic de-icing mode and would lead to an increased workload for the flightcrew. In the case where additional failures occur during a critical flight phase, the significantly increased workload could lead to loss of control of the aeroplane.

This [TCCA] AD mandates a wiring modification to segregate the HPSOV power supply from the TMU.

You may obtain further information by examining the MCAI in the AD docket.

**Relevant Service Information**

Bombardier, Inc. has issued Service Bulletin 84–36–04, Revision A, dated April 17, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

**FAA's Determination and Requirements of This Proposed AD**

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

**Costs of Compliance**

We estimate that this proposed AD affects 78 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Wiring Modification | 7 work-hours × $85 per hour = $595 | $0 | $595 | $46,410 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Bombardier, Inc.:** Docket No. FAA–2013–1068; Directorate Identifier 2013–NM–196–AD.

**(a) Comments Due Date**

We must receive comments by February 18, 2014.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc. Model DHC–8–400, -401, and -402 airplanes, certificated in any category, serial numbers 4001 through 4446 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 36, Pneumatic.

**(e) Reason**

This AD was prompted by reports of failure of the high pressure shutoff valves (HPSOVs) causing the timer and monitor unit (TMU) to become inoperative since the HPSOV and the TMU are on the same circuit breaker. We are issuing this AD to prevent an inoperative TMU, which could result in the loss of the automatic de-icing mode, and lead to an increased workload for the flight crew and loss of control of the airplane.

**(f) Compliance**

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**(g) Segregation of the HPSOV Power Supply From the TMU**

Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first: Do a wiring modification to segregate the HPSOV power supply from the TMU by incorporating Bombardier ModSum 4–110595, in accordance with the Accomplishment Instructions of Bombardier

Service Bulletin 84–36–04, Revision A, dated April 17, 2013.

**(h) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–36–04, dated March 13, 2013.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–27, dated September 25, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov*.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com*. You may review copies of this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 20, 2013.

**Jeffrey E. Duven,**

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

[FR Doc. 2013–31314 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF JUSTICE

## Bureau of Prisons

## 28 CFR Part 527

**[BOP–1165–P]**

**RIN 1120–AB65**

## Transfer of Offenders to Foreign Countries

**AGENCY:** Bureau of Prisons, Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to streamline its regulations on transferring offenders to foreign countries by eliminating language that constitutes agency guidance to staff. Guidance language will be retained in the relevant Bureau policy.

**DATES:** Comments due by March 3, 2014.

**ADDRESSES:** Comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, DC 20534. You may also comment via the Internet to BOP at *BOPRULES@BOP.GOV* or by using the *www.regulations.gov* comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

**SUPPLEMENTARY INFORMATION:**

### Posting of Public Comments

Please note that all comments received are considered part of the public record and are made available for public inspection online at *www.regulations.gov*. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *www.regulations.gov*.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

### Proposed Rule

In this document, the Bureau of Prisons (Bureau) proposes to streamline its regulations on transferring offenders to or from foreign countries by eliminating language that constitutes agency guidance to staff. Guidance language will be retained in the relevant Bureau policy. Below is an analysis of each new proposed section.

*Section 527.40 Purpose and Scope*

This section more concisely describes the statutory authority (18 U.S.C. 4100, et seq.) for the Bureau's procedures for transferring offenders to foreign countries and states that the purpose of this subpart is to describe those procedures. We propose to delete obsolete references to Public Law 95–144, as it has been codified as 18 U.S.C. 4100, and also propose to delete the recitation of authority which stated that ''18 U.S.C. 4102 authorizes the Attorney General to act on behalf of the United States in regard to such treaties. In accordance with the provisions of 28 CFR 0.96b, the Attorney General has delegated to the Director of the Bureau of Prisons, and to designees of the Director, the authority to receive custody of, and to transfer to and from the United States, offenders in compliance with the conditions of the treaty.'' This authority is stated elsewhere in regulation and in the Authority section preceding these regulations and is therefore not necessary to repeat in these regulations.

*Section 527.41 Definitions*

This section continues to define the terms ''treaty nation,'' ''state prisoner,''

''departure institution,'' and ''admission institution.'' We make a few minor changes to clarify that ''treaty nation'' is ''a country with which the United States has a transfer treaty relationship either through a bilateral treaty or multilateral transfer convention,'' instead of the former language, which incorrectly stated that countries enter into treaties ''with the United States on the Execution of Penal Sentences.'' This language is not common to all transfer agreements, which are normally made through bilateral treaties or multilateral transfer conventions with several countries at once or future countries who will accede to the convention.

We also clarify that an inmate can be a ''citizen or national'' of a foreign country, not just a citizen.

*Section 527.42 Limitations on Transfer of Offenders to Foreign Countries*

This section more concisely states the previous substantive provisions indicating that an inmate may not be considered for return to the inmate's country of citizenship or nationality unless the inmate satisfies specific requirements imposed by 18 U.S.C. 4100–4115 and the transfer treaties and conventions.

We delete subsection (a), which stated that an inmate in custody for civil contempt may not be considered for return to the inmate's country of citizenship; and subsection (b), which stated that an inmate with a committed fine may not be considered for return to the inmate's country of citizenship without the United States court's permission. Both of these exceptions are obscure limitations that have not arisen for the Bureau and therefore do not need to be identified in regulation.

In this section, we also propose to delete language indicating that, ''[w]hen considered appropriate, the Warden may contact the sentencing court to request the court's permission to process the inmate's application for return to the inmate's country of citizenship.'' This language is the Director's guidance to the Warden, and is more appropriate for implementing text in policy than regulation text.

*Section 527.43 Notification of Inmates*

This section continues to state that inmates will be notified regarding information on international offender transfers through the institution's admission and orientation program and by the case manager of an inmate who is a citizen or national of a treaty nation. This section also continues to indicate that the inmate must be given individual notice of the availability of the transfer program, provided with an opportunity to inquire about transfer to the country of which the inmate is a citizen or national, and informed of the procedures set forth in this part. This section was rewritten for clarity. No substantive language or requirements were changed in this section.

*Section 527.44 Request for Transfer to Country of Citizenship or Nationality*

This section consists only of current § 527.44(a), unchanged, which states that an inmate who is qualified for and desires to return to the inmate's country of citizenship or nationality for service of a sentence imposed in a United States Court must indicate the inmate's interest by completing and signing the appropriate form and giving it to Bureau staff for further processing. The rest of § 527.44 is split between the following two proposed regulations. This reorganization is being proposed for clarity.

*Section 527.45 Bureau Processing of the Transfer Request*

This section consists of the substance of current §§ 527.44(b) through (d). It more concisely indicates that the Warden will forward the transfer application to the Assistant Director, Correctional Programs Division, Central Office, who will then review the material, submit it to the Department of Justice for review, and notify the inmate of determinations made by the Department of Justice.

*Section 527.46 Transfer Procedures*

This section consists of the substance of current § 527.44(e) through (h), which describe transfer procedures. This regulation states that if the Department of Justice approves the transfer request, the treaty nation will be asked to consent to the transfer of its citizen or national, and the inmate will be informed of the determination. If the treaty nation consents, the United States will arrange a consent verification hearing, held before a U.S. Magistrate Judge or other judicial officer as specified in 18 U.S.C. 4107 and 4108. If the foreign national prisoner consents to the transfer, the Department of Justice will notify the transfer nation.

This section also indicates that following the verification hearing, the Bureau will arrange for delivery of the inmate to the authorities of the country of citizenship or nationality. We propose to delete two provisions, currently § 527.44(h)(1) and (2), which state that the Assistant Director shall advise the Warden of these arrangements and that the Warden shall arrange for the inmate to be transported to the foreign authorities and assure that the required documentation accompanies each inmate transported. Both of these provisions are guidance to staff and are more appropriately retained in implementing text in policy.

*Section 527.47 Transfer of State Prisoners to Other Countries*

This section repeats verbatim current § 527.45, which states that the Bureau may assume custody of a state prisoner who has been approved for transfer to a treaty nation for the purpose of facilitating the transfer to the treaty nation. Once approved, the state is not required to contract for the placement of the prisoner in federal custody, nor to reimburse the United States for the cost of confinement (as would ordinarily be required by 18 U.S.C. 5003).

*Section 527.48 Transfer of American National Prisoners From Foreign Countries*

This section more concisely encompasses current § 527.46, Receiving United States citizens from other countries. We simply state that the Bureau is responsible for sending escorts to foreign countries to retrieve American national prisoners who have been approved for transfer and have had their consent verification hearing. In addition, the Bureau must make transfer arrangements and coordinate with the U.S. Parole Commission for proceedings to determine how the inmate's sentence will be administered.

We propose to delete the following subparagraphs, however, because they are guidance to staff which does not need to be in regulation:

Subparagraph (a) is direction to staff accepting custody of American inmates from a foreign authority to ensure that particular documentation, such as a certified copy of the sentence, a statement detailing the offense, and citizenship papers, is available prior to accepting custody of the inmate.

Subparagraph (b) is direction to the Assistant Director, Correctional Programs Division, to direct staff to escort the offender from the transporting country to the admission institution, citing 28 CFR 0.96b as the authority to escort the offender. It also directs Wardens to make appropriate housing requirements with a nearby jail if an admission institution is not able to accept the inmate.

Subparagraph (c) requires staff to arrange for a newly arrived inmate to receive a complete physical examination, advise the local U.S. Probation Office of the inmate's arrival, and notify the U.S. Parole Commission of the inmate's arrival and projected release date.

Subparagraph (d) directs staff to implement release procedures if staff determine that an inmate is entitled to immediate release via mandatory release or expiration of sentence with credits applied, but only after medical clearance and the results of an FBI fingerprint check.

This language is the Director's guidance to staff, and is more appropriate for implementing text in policy than regulation text. It will be retained in policy guidance, as will all staff guidance deleted from these regulations.

*Executive Order 12866*

This regulation has been drafted and reviewed in accordance with Executive Order 12866, *Regulatory Planning and Review,* section 1(b), ''Principles of Regulation.'' The Director, Bureau of Prisons, has determined that this proposed rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this proposed rule has not been reviewed by the Office of Management and Budget.

*Executive Order 13132*

This proposed regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under EO 13132, we determine that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

*Regulatory Flexibility Act*

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this proposed regulation and, by approving it, certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

*Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects in 28 CFR Part 527**

Transfer of offenders to or from foreign countries.

**Charles E. Samuels, Jr.,**

*Director, Bureau of Prisons.*

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301 and 28 U.S.C. 509, 510, and delegated to the Director, Bureau of Prisons, we propose to amend 28 CFR part 527 as set forth below:

**Subchapter B—Inmate Admission, Classification, and Transfer**

## PART 527—TRANSFERS

■ 1. The authority citation for 28 CFR part 527 continues to read as follows:

**Authority:** 5 U.S.C. § 301; 18 U.S.C. 3565, 3569, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4100–4115, 4161–4166, (Repealed in part as to offenses committed on or after November 1, 1987), 4201–4218, 5003, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

■ 2. Revise subpart E to read as follows:

**Subpart E—Transfer of Offenders to Foreign Countries**

Sec.
527.40 Purpose and scope.
527.41 Definitions.
527.42 Limitations on transfer of offenders to foreign countries.
527.43 Notification of inmates.
527.44 Request for transfer to country of citizenship or nationality.
527.45 Bureau determination on request for transfer.
527.46 Transfer procedures.
527.47 Transfer of state prisoners to other countries.

## Subpart E—Transfer of Offenders to Foreign Countries

### § 527.40 Purpose and scope.

This subpart describes the Bureau of Prisons (Bureau) procedures regarding its role in the transfer of offenders to foreign countries and the transfer of American offenders back to the United States pursuant to 18 U.S.C. 4100, et seq., and applicable transfer treaties and conventions.

### § 527.41 Definitions.

For the purpose of this rule, the following definitions apply.

(a) *Treaty Nation.* A country with which the United States has a transfer treaty relationship either through a bilateral treaty or a multilateral transfer convention.

(b) *State Prisoner.* An inmate serving a sentence imposed in a court in one of the states of the United States, or in a territory or commonwealth of the United States.

(c) *Departure Institution.* The Bureau of Prisons institution to which an eligible inmate is finally transferred for return to the country of which the inmate is a citizen or national.

(d) *Admission institution.* The Bureau of Prisons institution where a United States citizen or national-inmate is first received from a treaty nation.

### § 527.42 Limitations on transfer of offenders to foreign countries.

The transfer treaties and conventions, as well as 18 U.S.C. 4100–4115, impose specific requirements that an inmate must satisfy in order to be returned to his or her country of citizenship or nationality.

### § 527.43 Notification of inmates.

Foreign national inmates will be notified about the International Prisoner Transfer Program and the procedures to follow to apply for transfer as follows:

(a) Through information provided in the institution's admission and orientation program; and

(b) Through individual notice given to an inmate who is a citizen or national of a treaty nation. The notice must:

(1) Reiterate the availability of the transfer program;

(2) Provide the inmate with an opportunity to inquire about transfer to the country of which the inmate is a citizen or national; and

(3) Inform the inmates of the procedures set forth in this part.

### § 527.44 Request for transfer to country of which inmate is a citizen or national.

An inmate who is eligible for and desires to transfer to the country of which the inmate is a citizen or national for service of a sentence imposed in a United States Court must indicate the inmate's interest by completing and signing the appropriate form and giving it to Bureau staff for further processing.

**§ 527.45 Bureau determination on request for transfer.**

The following is the process by which determinations are made on an inmate's request to be transferred to the country of which the inmate is a citizen or national to serve a sentence imposed in a United States Court.

(a) *Warden's determination.* Upon verifying that the inmate is eligible for transfer, the Warden forwards all relevant information, including a complete application package, to the Assistant Director, Correctional Programs Division, Central Office.

(b) *Central Office and Department of Justice determination.*

(1) The Assistant Director, Correctional Programs Division reviews the submitted material and forwards the application package to the Department of Justice for review.

(2) The Department of Justice notifies the inmate of the determinations made.

**§ 527.46 Transfer procedures.**

(a) *Treaty nation determination.* If the Department of Justice approves the transfer request, the treaty nation will be asked if it consents to the transfer of its citizen or national. The inmate will be informed of the determination made by the treaty nation.

(b) *Transfer to departure institution.* The Bureau and the Department of Justice will arrange for the inmate to be transferred to an appropriate departure institution.

(c) *Consent verification hearing.* If the treaty nation consents to the transfer, the United States will arrange a consent verification hearing for the prisoner as required by 18 U.S.C. 4107, 4108. This hearing is held before a U.S. Magistrate Judge or other judicial officer as specified in sections 4107 and 4108. The Bureau must ensure that the prisoner is available and present at the consent verification hearing.

(d) *Transfer to departure institution and foreign retrieval of inmate.* If the foreign national prisoner gives consent to transfer at the consent verification hearing, the Department of Justice will notify the treaty transfer nation.

**§ 527.47 Transfer of state prisoners to other countries.**

The Bureau of Prisons may assume custody of a state prisoner who has been approved for transfer to a treaty nation for the purpose of facilitating the transfer to the treaty nation. Once the state prisoner has consented to the transfer at the consent verification hearing, the Bureau assumes custody of the prisoner. The state is not required to contract for the placement of the prisoner in federal custody, nor to reimburse the United States for the cost of confinement (as would ordinarily be required by 18 U.S.C. 5003).

**§ 527.48 Transfer of American national prisoners from foreign countries.**

The Bureau of Prisons is responsible for:

(a) Sending escorts to foreign countries to retrieve American national prisoners who have been approved for transfer to the United States and who have had their consent verified at the consent verification hearing specified in 18 U.S.C. 4108; and

(b) Making logistical arrangements for the transfer and coordinating with the United States Parole Commission for proceedings to determine how the sentence will be administered.

[FR Doc. 2013–31021 Filed 12–31–13; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 120405260–3999–01]**

**RIN 0648–BC12**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Revisions to Dealer Permitting and Reporting Requirements for Species Managed by the Gulf of Mexico and South Atlantic Fishery Management Councils

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

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

**SUMMARY:** NMFS proposes regulations to implement a Generic Amendment to the Fishery Management Plans (FMPs) in the Gulf of Mexico (Gulf) and South Atlantic Regions (Generic Dealer Amendment). The Generic Dealer Amendment amends the following FMPs: Reef Fish Resources and the Red Drum Fishery of the Gulf; the Snapper-Grouper Fishery (including wreckfish), the Golden Crab Fishery, and the Shrimp Fishery (excluding penaeid shrimp) of the South Atlantic Region; the Dolphin and Wahoo Fishery of the Atlantic; and Coastal Migratory Pelagic (CMP) Resources and the Spiny Lobster Fishery of the Gulf and South Atlantic, as prepared by the Gulf and South Atlantic Fishery Management Councils (Councils). If implemented, this rule would modify the permitting and reporting requirements for seafood dealers who first receive species managed by the Councils through the previously mentioned FMPs. These revisions would create a single dealer permit for dealers who first receive fish managed by the Councils, require both purchase and non-purchase reports to be submitted online on a weekly basis, prohibit dealers from first receiving fish from federally-permitted vessels if they are delinquent in submitting reports, and revise the sale and purchase provisions based on the new dealer permitting requirements. This rule also adds regulatory language to clarify the bag limit for private recreational vessels when a trip exceeds one calendar day. The intent of this rule is to obtain timelier purchase information from dealers to better monitor annual catch limits (ACLs) and achieve optimum yield (OY) in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received on or before February 3, 2014.

**ADDRESSES:** You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2012–0206'', by any of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0206,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Rich Malinowski, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the Generic Dealer Amendment, which includes an environmental assessment and a regulatory impact review, may be

obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by email at *OIRA Submission@omb.eop.gov,* or by fax to 202–395–7285.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, Southeast Regional Office, NMFS, telephone 727–824–5305; email: *rich.malinowski@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** NMFS and the Councils manage the fisheries for Gulf Reef Fish Resources, Gulf Red Drum, South Atlantic Snapper-Grouper (including wreckfish), South Atlantic Golden Crab, South Atlantic Rock Shrimp, Atlantic Dolphin and Wahoo, Gulf and South Atlantic CMP, and Gulf and South Atlantic Spiny Lobster under their respective FMPs. The FMPs were prepared by the Councils and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

## Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to specify their strategy to rebuild overfished stocks to a sustainable level within a certain time frame, to minimize bycatch and bycatch mortality to the extent practicable, and to establish accountability measures (AMs) for stocks to ensure ACLs are not exceeded.

The purpose of this proposed rule is to improve the timeliness and accuracy of dealer reporting, which will help achieve harvest targets. Many commercial species and species complexes have AMs that implement closures of these species or species complexes when the commercial ACLs are projected to be met. The current reporting frequency reduces the precision of the projected catches, which may result in estimates of landings that are significantly less than or greater than the ACL. Optimum yield may not be achieved when the harvest for species or species complexes is prohibited well before the ACL is met. Currently, overages have the potential to result in significant disruption in fishing behavior the following fishing year and reduce revenue and profit for fishermen. Overages also decrease the ability of stocks to rebuild when overfished, and may lead to overfishing conditions. The management measures contained in this proposed rule, including increasing the frequency of dealer reporting and requiring more permitted dealers to report, would help improve monitoring of the ACLs.

## Management Measures Contained in This Proposed Rule

This proposed rule would modify the current permitting and reporting requirements for seafood dealers who first receive fish managed by the Councils through eight FMPs. The term dealer is defined at § 600.10: ''Dealer means the person who first receives fish by way of purchase, barter or trade.'' If fish are transported to a dealer on land, the transporter is not considered the ''first receiver,'' is not considered a dealer for the purpose of possession of these fish, and is not required to be a registered dealer. However, because the transporter is assumed to be an agent of the dealer to which the fish are being transported, the transporter must possess a copy of the dealer permit belonging to that dealer. If implemented, this rule would create one universal dealer permit (a Gulf and South Atlantic dealer permit), increase the frequency of dealer reporting, require dealers to report purchases and non-purchases electronically, prohibit dealers from continuing to receive fish from federally permitted vessels if they are delinquent in submitting their reports, and revise the sale and purchase provisions for certain federally managed species.

### *Gulf and South Atlantic Dealer Permits*

Currently, there are six Federal dealer permits in the Southeast Region: Atlantic Dolphin-Wahoo, Gulf Reef Fish, South Atlantic Golden Crab, South Atlantic Rock Shrimp, South Atlantic Snapper-Grouper (excluding wreckfish), and South Atlantic Wreckfish. This rule would create a single dealer permit (a Gulf and South Atlantic dealer permit) that would be required to first receive the species currently covered by the six dealer permits, as well as Gulf and South Atlantic CMP, Gulf and South Atlantic spiny lobster, and Gulf red drum. A Gulf and South Atlantic dealer permit would not be required to first receive South Atlantic coral, South Atlantic pelagic *Sargassum,* Gulf coral and coral reef species, and Gulf and South Atlantic penaeid shrimp species.

The Councils exempted penaeid shrimp species from the Gulf and South Atlantic dealer permit because no ACLs have been established for these species (because they have annual life cycles). Thus, the current reporting system is adequate for determining catch and effort for these species and the administrative burden of issuing such a large number of shrimp dealer permits would outweigh the benefits of more timely shrimp dealer reports. The Councils did not include corals or pelagic *Sargassum* because coral harvest is limited to octocoral harvest off Florida and does not require a Federal harvest permit if landed in Florida, and there is no recorded harvest of pelagic *Sargassum* from Federal waters.

### *Frequency and Method of Dealer Reporting*

Currently, federally permitted Gulf reef fish, South Atlantic snapper-grouper, and South Atlantic wreckfish dealers, and dealers with records of king mackerel or Spanish mackerel purchases from the previous year, are required to submit dealer purchase forms once every 2 weeks via fax or online through the appropriate state trip ticket reporting system. South Atlantic golden crab, rock shrimp, and Atlantic dolphin-wahoo dealers are required to submit dealer purchase forms once a month via fax or online through the appropriate state trip ticket reporting system. Reports are currently due 5 days after the end of each reporting period and must include all species received.

This rule would require federally permitted dealers to submit a detailed electronic report of all fish first received for a commercial purpose via the dealer electronic trip ticket reporting system. These electronic reports would be submitted on a weekly basis, and would be due by 11:59 p.m., local time, the Tuesday following a reporting week. A reporting week is defined as beginning at 12:01 a.m., local time, on Sunday and ending at 11:59 p.m., local time, the following Saturday. Dealers who first receive Gulf migratory king mackerel harvested by the run-around gillnet sector in the southern Florida west coast subzone would be required to submit their dealer reports for these species on a daily basis. These reports would be submitted through the dealer electronic trip ticket reporting system by 6 a.m., local time, for the previous day's harvest. In addition to reporting purchases, federally permitted dealers would also be required to submit records of no purchases via the dealer

electronic trip ticket reporting system at the same frequency and via the same process as records for purchases. The Councils and NMFS would allow non-purchases to be reported up to 90 days in advance, if such an option exists in the state reporting system. If, after submitting an advance no purchase report, the dealer does receive fish, then a purchase report must be submitted for those fish.

Every state, except South Carolina, allows dealers to submit reports electronically through the dealer electronic trip ticket reporting system. South Carolina only authorizes paper-based reporting; therefore, dealers in South Carolina would need to report both by paper (according to state regulations) and electronically (according to Federal regulations). The Science and Research Director (SRD), Southeast Fisheries Science Center, NMFS, or the alternate SRD, Northeast Fisheries Science Center, NMFS (for species harvested from Virginia through Maine) receives all of the electronic dealer reports within approximately 3 days of data entry, and uses the data for ACL monitoring. Under this proposed rule dealers would continue to use their state trip ticket reporting system, except for South Carolina.

The data elements currently reported through the state trip ticket systems include the trip ticket number, dealer or processor's name, Federal permit number and state dealer license number, vessel name, U.S. Coast Guard documentation number and state registration number, vessel trip report number, date the vessel leaves the dock, date the vessel offloads the catch, date of purchase, species, amount landed, price per unit, port and state of landing, gear used, area fished, size category, and condition and disposition of the catch.

During catastrophic conditions only, this rule would allow dealers to use a paper-based system for submitting dealer reports. The Regional Administrator (RA) will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants are affected. The RA will provide notice of a paper-based system via notification in the **Federal Register**, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the use of the paper-based system for the duration of the catastrophic conditions. The paper forms will be available from NMFS.

*Non-reporting*

This rule would stipulate that dealers who are delinquent on submitting their reports are prohibited from receiving fish from federally-permitted vessels until they have submitted all required reports. This provision would aid in enforcement efforts to ensure dealer reports are submitted in a timely manner.

*Revisions to Sale and Purchase Provisions*

This rule would revise the sale and purchase requirements for federally managed species based on changes to the dealer permitting requirements. Currently, federally managed species harvested on board a federally permitted vessel may only be sold to a federally permitted dealer for that specific fishery, and only federally permitted dealers for specific fisheries may first receive those specific federally managed species. This rule would provide more flexibility to fishermen and dealers by allowing federally managed species harvested on board a federally permitted vessel to be sold or transferred to any dealer with a Gulf and South Atlantic dealer permit (except for individual fishing quota (IFQ) species which would still be required to be sold to a dealer with an IFQ dealer endorsement), and dealers with a Gulf and South Atlantic dealer permit would be allowed to first receive all federally managed species harvested in or from the EEZ by federally permitted vessels (except for IFQ species, in which case the dealer would also be required to have an IFQ dealer endorsement).

This rule would also clarify that federally permitted vessels may only sell federally managed species harvested in either Federal waters or adjoining state waters to a dealer who has a valid Gulf and South Atlantic dealer permit. This provision would place restrictions on certain federally permitted vessels that currently are able to sell their catch to non-federally permitted dealers. Through this rulemaking, vessels with commercial or charter vessel/headboat permits for CMP and vessels with Federal commercial permits for spiny lobster, including the Federal tail-separation permit, would only be allowed to sell federally managed species (including bag-limit caught CMP) that are harvested in either Federal waters or adjoining state waters to a dealer who has a valid Gulf and South Atlantic dealer permit. Also, all federally permitted vessels that harvest CMP under the bag limit, in Federal waters or adjoining state waters, would be required to sell those CMP to a dealer who has a valid Gulf and South Atlantic dealer permit.

*Other Changes Contained in This Proposed Rule*

Recently, NMFS has received several inquiries regarding how the bag limit is determined for private recreational vessels when a trip exceeds one calendar day. NMFS has determined that the regulations addressing this issue should be clarified. Currently, the regulations for the general provisions for bag limits, specified at 50 CFR 622.11(a), state that ''Unless specified otherwise, bag limits apply to a person on a daily basis, regardless of the number of trips in a day.'' However, these regulations do not provide any explanation of the number of bag limits that apply to a person on a trip that exceeds one calendar day. The original intent of the Gulf and South Atlantic Councils is clear in Amendment 1 to the FMP for the Reef Fish Resources of the Gulf of Mexico, Amendment 5 to the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic, and Amendment 4 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region, and the accompanying final rules promulgated by NMFS (55 FR 2078, January 22, 1990; 55 FR 29370, July 19, 1990; and 56 FR 56016, October 31, 1991, respectively). Those amendments and final rules stated that unless specified otherwise, bag limits apply to a person on a daily basis, regardless of the number of trips in a day, and that a person on a trip that exceeds one calendar day is limited to a single daily bag limit. NMFS has determined that during a reorganization of these regulations in 1996 (61 FR 34930, July 3, 1996), this nuance was lost when NMFS altered the regulatory text to specify the bag and possession limits that apply to charter vessels or headboats in each FMP. However, these regulations have continued to be enforced consistent with the original intent of the FMPs: unless specified otherwise, bag limits apply to a person on a daily basis, regardless of the number of trips in a day or the duration of a trip. Therefore, to ensure that the regulations clearly reflect the original intent of the Gulf and South Atlantic Councils, this proposed rule would add the following sentence to 50 CFR 622.11(a): ''Unless specified otherwise, a person is limited to a single bag limit for a trip lasting longer than one calendar day.'' This change is not related to the Generic Dealer Amendment.

*Proposed Implementation and Compliance Timeline for Revised Dealer Permitting and Reporting Requirements*

In an effort to minimize the burden on currently permitted dealers, and provide for a smooth transition to the new Gulf and South Atlantic dealer permit, NMFS intends to take a phased approach to implementing the new requirements contained in this rule. If implemented, the Generic Dealer Amendment and the final rulemaking for the measures contained in this proposed rule would become effective 4 months after publication of the final rule. Upon publication of the final rule, dealers that currently do not have a valid Federal dealer permit for any Gulf or South Atlantic fishery could submit an application for a Gulf and South Atlantic dealer permit. Gulf and South Atlantic dealer permits would be issued within 30 days of receipt of a completed dealer permit application, so applicants should submit their application at least 30 days prior to the date upon which they need the permit to be effective. However, the Gulf and South Atlantic dealer permit requirement, and the associated reporting and recordkeeping requirements contained in this rule, would not be effective until 4 months after the publication date of the final rule. Therefore, dealers issued Gulf and South Atlantic dealer permits before the effective date of the final rule will be required to continue to purchase Gulf and South Atlantic species under existing Federal permitting requirements, and would not be able to operate under the Gulf and South Atlantic permit until after the final rule becomes effective. Likewise, these dealers will not be required to report until after the final rule becomes effective.

For those dealers who already have a valid Federal dealer permit for any Gulf or South Atlantic fishery, NMFS will treat their current permit as a Gulf and South Atlantic dealer permit as of the effective date of the final rule (4 months after publication of the final rule). These dealers will not be required to apply for a new Gulf and South Atlantic dealer permit until their existing permit(s) expire at some point after the effective date of the rule. This would mean that dealers who currently have a valid Federal dealer permit for any Gulf or South Atlantic fishery may begin to first receive all species covered under the Gulf and South Atlantic dealer permit on the effective date of the final rule (4 months after publication of the final rule), and must comply with all reporting and recordkeeping requirements contained in this rule as of the effective date of the final rule. Therefore, all federally permitted dealers (those with a current valid Federal dealer permit for any Gulf or South Atlantic fishery, and those with a new Gulf and South Atlantic dealer permit) would have to comply with the revised dealer reporting and recordkeeping requirements as of the effective date of the final rule (4 months after publication of the final rule).

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NOAA Assistant Administrator for Fisheries (AA) has determined that this proposed rule is consistent with the eight affected FMPs, the Generic Dealer Amendment, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to change the current permit and reporting requirements for entities that purchase species managed by the Councils to ensure landings of managed fish stocks are recorded accurately and in a timely manner so that ACLs are not exceeded. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

This rule, if implemented, is expected to directly affect dealers that currently have a Federal dealer permit, dealers that do not have a Federal dealer permit that have historically purchased federally managed species and wish to continue to make these purchases, and federally permitted fishermen who would be required to sell their harvest to federally permitted dealers. There are an estimated 300 dealers that currently have a Federal dealer permit and an estimated 699 dealers that do not have a Federal dealer permit but who have historically purchased federally managed species encompassed by this proposed rule. The average annual revenue from seafood purchases for currently permitted Federal dealers over the period 2008–2010 was approximately $546,000 (nominal uninflated dollars). For the dealers without a Federal dealer permit that would be expected to be directly affected by this proposed rule, the average annual revenue over the same period was approximately $134,000 (nominal uninflated dollars). More recent summary information for both groups of dealers is not available.

Federally permitted fishermen who would be required to sell their catch to federally permitted dealers include commercial fishermen and for-hire fishermen allowed to sell bag-limit quantities of certain federally managed species. CMP species are the only species where bag-limit caught fish are allowed to be sold. The number of individual fishermen that would be newly required to sell their harvests to federally permitted dealers is unknown because many fishermen possess multiple permits to harvest different species and it is unknown how many vessels sell bag limit quantities of certain species, where allowed. As a result, only estimates of the current number of vessels holding individual permits are available at this time. On September 17, 2012, the following number of commercial permits were valid (non-expired) or renewable, where appropriate (only limited access permits are renewable): 1,496 commercial king mackerel permits; 1,794 commercial Spanish mackerel permits; 249 commercial spiny lobster permits; 322 spiny lobster tailing permits; 544 South Atlantic peneaid shrimp permits; and 1,544 Gulf shrimp permits. Estimates of the average annual revenue per commercial vessel vary by fishery. For vessels that would be newly required to sell their harvests to federally permitted dealers, estimates of their average annual revenue range from a low of approximately $28,000 (2008 dollars) for vessels with a Spanish mackerel permit to a high of approximately $208,000 (2009 dollars) for vessels with a Gulf shrimp permit. It should be noted that although this rule, if implemented, would not require a Federal dealer permit to purchase peneaid shrimp, commercial peneaid shrimp fishermen fall within the scope of this rule because they are currently allowed to sell bag-limit quantities of CMP species.

For for-hire vessels, the for-hire sector is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. On September 17, 2012, the following number of for-hire permits were valid or renewable, where appropriate: 1,526 South Atlantic charter/headboat CMP permits; 1,349 Gulf charter/headboat CMP permits; and 41 Gulf charter/headboat CMP historical captain permits. Although the for-hire permit does not distinguish between charterboats and headboats, an

estimated 69 headboats operate in the Gulf and 75 headboats operate in the South Atlantic. As a result, an estimated 1,321 charterboats with CMP permits (regular or historical captain) operate in the Gulf and 1,451 charterboats with CMP permits operate in the South Atlantic. For the for-hire fleet in the Gulf, the average charterboat is estimated to earn approximately $76,000 (2009 dollars) in annual revenue, while the average headboat is estimated to earn approximately $230,000 (2009 dollars). The comparable revenues for for-hire vessels in the South Atlantic are approximately $106,000 (2009 dollars) and $188,000 (2009 dollars), respectively.

No other small entities that would be expected to be directly affected by this proposed rule have been identified.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including seafood dealers and harvesters. A business involved in seafood purchasing and processing is classified as a small business based on either employment standards or revenue thresholds. The employment standard for a business classified as a small business is if it employs less than or equal to 500 employees for seafood processors (NAICS code 311712, fresh and frozen seafood processing) or less than or equal to 100 employees if operating as a wholesaler (NAICS code 424460, fish and seafood merchant wholesalers). The revenue threshold for a seafood business classified as a small business is if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $7.0 million (NAICS code 445220, fish and seafood marketing) for all affiliated operations worldwide. The revenue threshold for a business involved in the fish harvesting industry is $19.0 million (NAICS code 114111, finfish fishing) and in the for-hire fishing industry is $7.0 million (NAICS code 713990, recreational industries). The receipts threshold for finfish fishing is the result of a final rule issued by the SBA on June 20, 2013, which increased the size standard for Finfish Fishing from $4.0 to $19.0 million (78 FR 37398). The receipts thresholds for seafood businesses and for-hire businesses have not been changed as a result of recent review by the SBA. Although employment estimates are not available for the dealers that would be expected to be directly affected by this proposed action, the average revenue estimates for these entities suggest the employment thresholds would not be exceeded. Based on the information provided above, all dealers, commercial vessels, and for-hire vessels expected to be directly affected by this proposed rule are determined for the purpose of this analysis to be small business entities.

This rule, if implemented, would require a universal Federal dealer permit (a Gulf and South Atlantic dealer permit) to purchase the following federally managed species or species complexes: Atlantic dolphin-wahoo, South Atlantic golden crab, South Atlantic rock shrimp, South Atlantic snapper-grouper (including wreckfish), Gulf reef fish, Gulf and South Atlantic CMP, Gulf and South Atlantic spiny lobster, and Gulf red drum. This rule would also require that all dealers possessing a Gulf and South Atlantic dealer permit submit purchase forms of all purchases weekly (except king mackerel gillnet reports which would be required to be submitted daily) via the dealer electronic trip ticket reporting system, and that ''no purchase forms'' be submitted, if no purchase activity occurs, with the same frequency as purchase forms. However, if a dealer knows in advance that no purchase activity will occur for an extended period of time, a ''no purchase form'' may cover a period of up to 90 days, if such an option exists in the state reporting system. If after submitting an advance no purchase report the dealer does receive fish, then a purchase report must be submitted for those fish. None of these requirements would be expected to require special professional skills. Permit application and purchase reporting are standard skills required for all dealers to satisfy current Federal or state requirements. As a result, all affected small entities would be expected to already have staff with the appropriate skills and training to meet these requirements.

This rule, if implemented, would result in four primary outcomes. Currently, separate Federal dealer permits are required to purchase different federally managed species or species groups. The first primary outcome of this rule would be that dealers would only be required to obtain a single universal Federal dealer permit to purchase the federally managed species encompassed by this rule. Current Federal dealer permit application costs, not including time costs and postage, are $50 for the first permit and $12.50 for each additional permit. Some current Federal permit holders possess as many as six dealer permits, which cost a total of $112.50 in application fees. Consolidating the Federal dealer permits into a single universal Federal dealer permit would be estimated to save current permit holders collectively up to $6,700 in application fees. Individually, the application fee savings for these entities would range from $12.50 (for entities holding two permits) to $62.50 (for entities holding six permits). The estimated average annual revenue for these entities with at least one Federal dealer permit is approximately $546,000. The expected permit application savings that would arise from the proposed permit consolidation would, therefore, constitute a minor reduction in business expenses relative to average annual revenue.

The second primary outcome of this rule would be that dealers that do not possess a Federal dealer permit would be required to obtain a universal Federal dealer permit to continue to purchase certain federally managed species. An estimated 699 dealers that have historically purchased these federally managed species but do not have any Federal dealer permit would be required to obtain a universal Federal dealer permit in order to continue to purchase these species. The estimated cost to obtain this permit, including postage and the time cost of preparation, is $72.42 ($50 for the permit application, $21.97 time cost, and $0.45 postage). The total cost across all 699 entities would be approximately $50,600. The average annual revenue for these entities is estimated to be approximately $134,000. The expected permit application cost per entity would, therefore, constitute a minor increase in business expenses relative to average annual revenue.

The third primary outcome of this rule would be that purchases must be reported by federally permitted dealers weekly (except Gulf king mackerel gillnet purchases must be reported daily), reporting of no purchase activity would be required to be submitted with the same frequency as purchases, though purchase inactivity could be reported in advance for up to 90 days, and all reports must be submitted electronically via the dealer electronic trip ticket reporting system. If a dealer does not submit the required reports, they would be prohibited from continuing to purchase fish from federally permitted vessels until the reporting requirements are met. Both reporting requirements (frequency and method) could be modified under decision by the RA should catastrophic conditions arise, preventing normal business operation. All affected entities currently operate in states that require reporting and allow electronic reporting (except South Carolina), but none of these states require electronic reporting.

All respective states except South Carolina accept electronic reporting to satisfy state reporting requirements. If a South Carolina dealer submits a report electronically, the dealer must also submit a paper report to satisfy the state reporting requirements.

Electronic reporting would require the affected entity to have a computer, internet services, and the necessary skill to compile and submit reports. The number of estimated 699 dealers that would be required to obtain a Gulf and South Atlantic dealer permit would not already have these as part of their routine business operation is unknown. The use of computers and the internet, however, is commonplace and a vital tool in business management. According to the SBA, in 2010, approximately 94 percent of businesses used computers and 95 percent of these had internet service. As a result, the majority of the affected entities would not be expected to incur new expenditures associated with computer and internet access as a result of this proposed rule. For those entities that would need to incur these new expenditures, these expenditures would not be expected to constitute a significant increase in their business expenses. Computers are readily available at a cost of less than $750 and internet services under $100 per month would be expected to be available in most locations. As previously discussed, the average annual revenue for these entities is $134,000.

Any affected entity in South Carolina would be required to report twice, once electronically to satisfy the requirements of this proposed rule, and once by paper to satisfy the state reporting requirements. This would be expected to affect an estimated 38 entities, or approximately 4 percent of the total number of dealers expected to be affected by this proposed rule (999 total dealers, or 300 dealers with current Federal permits and 699 dealers expected to obtain a required Federal permit as a result of this proposed rule).

In addition to potentially requiring some entities to acquire computers and internet service, this proposed rule would increase the reporting frequency for 699 dealers, which are currently only required to report monthly. Although the potential economic effects of this requirement cannot be quantified with available data, increasing the frequency of reporting would not be expected to result in a significant increase in operating costs to any business entity. To satisfy state reporting requirements, transactions by seafood dealers with fishermen require the generation of a trip ticket for each transaction and subsequent submission of these tickets to the state reporting system. As a result of cooperative agreements, Federal data collection entities have direct access to this information after it is submitted to the state systems. After the data are entered into the dealers' record system (computer or similar electronic device), submission of these tickets simply requires hitting the send button. Increasing the frequency of reporting, therefore, would simply require hitting the send button weekly (or daily) rather than monthly. For dealers that may initially create paper trip tickets, it is possible that some may not enter their data on a daily or continuous basis. For these entities, the proposed weekly reporting may require altering their business practices, with associated possible increases in business costs, to meet the proposed requirements. However, these instances would be expected to be the exception rather than the norm, and any increase in business expenses would be expected to be minor.

With respect to the implications on dealers of non-compliance with the proposed reporting requirements, the prohibition on the continued purchase of commercially harvested fish from federally permitted vessels could severely affect the profits of the dealer. However, compliance with the proposed reporting requirements would be completely within the control of the individual dealer. Because avoiding such situations would be expected to be in the best economic interests of each dealer, these situations would be expected to occur infrequently and be of limited duration.

The fourth primary outcome of this rule would be that federally permitted fishermen would be required to sell their harvest to federally permitted dealers. Because of the low cost of the Federal dealer permit ($50) and the absence of a limit on the number of permits issued, most dealers that do not currently possess a Federal dealer permit would be expected to obtain a permit to maintain their product flow and business relationships with current client fishermen and enhance their opportunity to purchase fish from a wider variety of vessels. As a result, few if any fishermen would be expected to need to change dealers, incur increased costs associated with changing dealers, or encounter reduced prices if access to qualified dealers is limited. As a result, the direct economic effects associated with this requirement would not be expected to be significant.

Based on the discussion above, NMFS determines that this rule, if implemented, would not have a significant economic effect on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA. NMFS is revising the collection-of-information requirements under OMB control number 0648–0013 and 0648–0205. NMFS estimates the requirement for dealers to report electronically would decrease the overall dealer reporting burden under OMB control number 0648–0013, because dealers would be reporting all species through the electronic dealer trip ticket reporting system offered in each state, and NMFS would receive these data from the states. This would eliminate a duplication of effort on the dealers who were reporting similar information to the states and to NMFS (except for South Carolina, which still requires paper reporting).

NMFS estimates the requirement for dealers to report more frequently (weekly instead of semi-monthly or monthly) would not create more burden on dealers, because the dealers would still be reporting the same amount of information, they would just be transmitting the data more frequently.

NMFS estimates the reporting burden under OMB control number 0648–0205 would increase because more dealers would be required to apply for a Federal dealer permit through this rulemaking (approximately 1,000 entities, including 300 current dealers and 700 new dealers). NMFS estimates the requirement for dealers to complete the Federal Permit Application for an Annual Dealer Permit to obtain a Gulf and South Atlantic Dealer Permit would average 20 minutes per response (for new permits and renewals). NMFS estimates the requirement to complete ''doing business as'' (DBA) names and check a box indicating whether or not a business is active with respect to its secretary of state on the Federal Permit Application for an Annual Dealer Permit under OMB control number 0648–0205 would average 1 minute per response.

Finally, NMFS estimates the requirement for dealers to complete their email address on the Federal

Permit Application for an Annual Dealer Permit under OMB control number 0648–0205 would average 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

These requirements have been submitted to OMB for approval. NMFS seeks public comment regarding: 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; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 622**

Dealer, Fisheries, Fishing, Gulf of Mexico, Reporting and recordkeeping requirements, South Atlantic.

Dated: December 23, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.2, the definition ''Reporting week'' is added in alphabetical order to read as follows:

### § 622.2 Definitions and acronyms.

* * * * *

*Reporting week* means the period of time beginning at 12:01 a.m., local time, on Sunday and ending at 11:59 p.m., local time, the following Saturday.

* * * * *

■ 3. In § 622.4, the third sentence in paragraph (h) is revised to read as follows:

### § 622.4 Permits—general.

* * * * *

(h) * * * In addition, a copy of the dealer's permit must accompany each vehicle that is used to pick up from a fishing vessel fish harvested from the EEZ. * * *

* * * * *

■ 4. In § 622.5, paragraph (c) is added to read as follows:

### § 622.5 Recordkeeping and reporting—general.

* * * * *

(c) *Dealers*—(1) *Permitted Gulf and South Atlantic dealers.* (i) A person issued a Gulf and South Atlantic dealer permit must submit a detailed electronic report of all fish first received for a commercial purpose within the time period specified in this paragraph, via the dealer electronic trip ticket reporting system. These electronic reports must be submitted at weekly intervals via the dealer electronic trip ticket reporting system by 11:59 p.m., local time, the Tuesday following a reporting week. If no fish were received during a reporting week, an electronic report so stating must be submitted for that reporting week. Dealers must submit electronic reports for Gulf migratory group king mackerel harvested by the run-around gillnet sector in the southern Florida west coast subzone daily via the dealer electronic trip ticket reporting system by 6 a.m., local time, for the previous day's harvest. Until the commercial ACL (commercial quota) for the run-around gillnet sector for Gulf migratory group king mackerel is reached, if no king mackerel were received, an electronic report so stating must be submitted for that day.

(ii) Dealers must retain either the paper forms or electronic reports for at least 1 year after the submittal date and must provide such records for inspection upon the request of an authorized officer or the SRD.

(iii) During catastrophic conditions only, the ACL monitoring program provides for use of paper-based components for basic required functions as a backup. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(iv) Gulf and South Atlantic dealers are not authorized to first receive Gulf reef fish, Gulf red drum, South Atlantic golden crab, South Atlantic snapper-grouper, South Atlantic wreckfish, South Atlantic rock shrimp, coastal migratory pelagic fish, spiny lobster, or Atlantic dolphin or wahoo from a federally-permitted vessel if the required reports have not been submitted and received by NMFS according to the reporting requirements under this section. Delinquent reports automatically result in a Gulf and South Atlantic dealer becoming ineligible to first receive such fish, regardless of any notification to dealers by NMFS. Gulf and South Atlantic dealers who become ineligible to receive such fish due to delinquent reports are authorized to first receive such fish only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

(2) *Non-permitted dealers.* See § 622.51 for a person who purchases Gulf shrimp from a vessel, or person, that fishes for shrimp in the Gulf EEZ or in adjoining state waters, or that lands shrimp in an adjoining state.

■ 5. In § 622.11, a sentence is added after the second sentence in paragraph (a)(1) to read as follows:

### § 622.11 Bag and possession limits—general applicability.

* * * * *

(a) * * *

(1) * * * Unless specified otherwise, a person is limited to a single bag limit for a trip lasting longer than one calendar day. * * *

* * * * *

■ 6. In § 622.13, paragraph (h) is added to read as follows:

### § 622.13 Prohibitions—general.

* * * * *

(h) First receive fish from federally-permitted vessels if the required reports have not been submitted in accordance with § 622.5(c).

* * * * *

■ 7. In § 622.20, paragraph (c)(1) is revised to read as follows:

### § 622.20 Permits and endorsements.

* * * * *

(c) * * *

(1) *Permits.* For a dealer to first receive Gulf reef fish harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

* * * * *

■ 8. In § 622.21, paragraph (b)(2) is revised to read as follows:

**§ 622.21 Individual fishing quota (IFQ program) for Gulf red snapper.**

* * * * *

(b) * * *

(2) *Gulf IFQ dealer endorsements.* In addition to the requirement for a Gulf and South Atlantic dealer permit as specified in § 622.20(c)(1), for a dealer to first receive red snapper subject to the IFQ program for Gulf red snapper, as specified in paragraph (a)(1) of this section, or for a person aboard a vessel with a Gulf IFQ vessel account to sell such red snapper directly to an entity other than a dealer, such persons must also have a Gulf IFQ dealer endorsement. A dealer with a Gulf and South Atlantic dealer permit can download a Gulf IFQ dealer endorsement from the NMFS IFQ Web site at *ifq.sero.nmfs.noaa.gov*. If such persons do not have an IFQ online account, they must first contact IFQ Customer Service at 1–866–425–7627 to obtain information necessary to access the IFQ Web site and establish an IFQ online account. There is no fee for obtaining this endorsement. The endorsement remains valid as long as the Gulf and South Atlantic dealer permit remains valid and the dealer is in compliance with all Gulf reef fish and IFQ reporting requirements, has paid all IFQ fees required, and is not subject to any sanctions under 15 CFR part 904. The endorsement is not transferable.

* * * * *

■ 9. In § 622.22, paragraph (b)(2) is revised to read as follows:

**§ 622.22 Individual fishing quota (IFQ program) for Gulf groupers and tilefishes.**

* * * * *

(b) * * *

(2) *Gulf IFQ dealer endorsements.* In addition to the requirement for a Gulf and South Atlantic dealer permit as specified in § 622.20(c)(1), for a dealer to first receive groupers and tilefishes subject to the IFQ program for groupers and tilefishes, as specified in paragraph (a)(1) of this section, or for a person aboard a vessel with a Gulf IFQ vessel account to sell such groupers and tilefishes directly to an entity other than a dealer, such persons must also have a Gulf IFQ dealer endorsement. A dealer with a Gulf and South Atlantic dealer permit can download a Gulf IFQ dealer endorsement from the NMFS IFQ Web site at *ifq.sero.nmfs.noaa.gov*. If such persons do not have an IFQ online account, they must first contact IFQ Customer Service at 1–866–425–7627 to obtain information necessary to access the IFQ Web site and establish an IFQ online account. There is no fee for obtaining this endorsement. The endorsement remains valid as long as the Gulf and South Atlantic dealer permit remains valid and the dealer is in compliance with all Gulf reef fish and IFQ reporting requirements, has paid all IFQ fees required, and is not subject to any sanctions under 15 CFR part 904. The endorsement is not transferable.

* * * * *

■ 10. Section 622.25 is revised to read as follows:

**§ 622.25 Exemptions for Gulf groundfish trawling.**

Gulf groundfish trawling means fishing in the Gulf EEZ by a vessel that uses a bottom trawl, the unsorted catch of which is ground up for animal feed or industrial products.

(a) Other provisions of this part notwithstanding, the owner or operator of a vessel trawling for Gulf groundfish is exempt from the following requirements and limitations for the vessel's unsorted catch of Gulf reef fish:

(1) The requirement for a valid commercial vessel permit for Gulf reef fish in order to sell Gulf reef fish.

(2) Minimum size limits for Gulf reef fish.

(3) Bag limits for Gulf reef fish.

(4) The prohibition on sale of Gulf reef fish after a quota or ACL closure.

(b) Other provisions of this part notwithstanding, a dealer in a Gulf state is exempt from the requirement for a Gulf and South Atlantic dealer permit to receive Gulf reef fish harvested from the Gulf EEZ by a vessel trawling for Gulf groundfish.

■ 11. In § 622.26, paragraph (c) is revised to read as follows:

**§ 622.26 Recordkeeping and Reporting.**

* * * * *

(c) *Dealers.* (1) A dealer who first receives Gulf reef fish must maintain records and submit information as specified in § 622.5(c).

(2) The operator of a vehicle that is used to pick up from a fishing vessel Gulf reef fish must maintain a record containing the name of each fishing vessel from which reef fish on the vehicle have been received. The vehicle operator must provide such record for inspection upon the request of an authorized officer.

■ 12. In § 622.40, paragraphs (b) and (c) are revised to read as follows:

**§ 622.40 Restrictions on sale/purchase.**

* * * * *

(b) A Gulf reef fish harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for Gulf reef fish may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.20(c)(1).

(c) A Gulf reef fish harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.20(c)(1), only from a vessel that has a valid commercial vessel permit for Gulf reef fish.

■ 13. Subpart E is revised to read as follows:

**Subpart E—Red Drum Fishery of the Gulf of Mexico**

Sec.
622.90 Permits.
622.91 Recordkeeping and reporting.
622.92 Prohibited species.
622.93 Adjustment of management measures.

## Subpart E—Red Drum Fishery of the Gulf of Mexico

**§ 622.90 Permits.**

(a) *Dealer permits and conditions*—(1) *Permits.* For a dealer to first receive Gulf red drum harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(2) *State license and facility requirements.* To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(b) *Permit procedures.* See § 622.4 for information regarding general permit procedures including, but not limited to application, fees, duration, transfer, renewal, display, sanctions and denials, and replacement.

**§ 622.91 Recordkeeping and reporting.**

(a) *Dealers.* A dealer who first receives Gulf red drum must maintain records and submit information as specified in § 622.5(c).

(b) [Reserved]

**§ 622.92 Prohibited species.**

(a) *General.* The harvest and possession restrictions of this section apply without regard to whether the species is harvested by a vessel operating under a commercial vessel permit. The operator of a vessel that fishes in the EEZ is responsible for the limit applicable to that vessel.

(b) *Red drum.* Red drum may not be harvested or possessed in or from the Gulf EEZ. Such fish caught in the Gulf EEZ must be released immediately with a minimum of harm.

**§ 622.93 Adjustment of management measures.**

In accordance with the framework procedures of the FMP for the Red Drum Fishery of the Gulf of Mexico, the RA may establish or modify the following items:

(a) Reporting and monitoring requirements, permitting requirements, bag and possession limits (including a bag limit of zero), size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, ABC and ABC control rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, and restrictions relative to conditions of harvested fish (maintaining fish in whole condition, use as bait).

(b) [Reserved]

■ 14. In § 622.170, paragraph (c)(1) is revised to read as follows:

**§ 622.170 Permits and endorsements.**

* * * * *

(c) * * *

(1) *Permits.* For a dealer to first receive South Atlantic snapper-grouper (including wreckfish) harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

* * * * *

■ 15. In § 622.172, paragraphs (b), (c)(6), (c)(7), and (d)(4) are revised to read as follows:

**§ 622.172 Wreckfish individual transferable quota (ITQ) system.**

* * * * *

(b) *List of wreckfish shareholders.* Annually, on or about March 1, the RA will provide each wreckfish shareholder with a list of all wreckfish shareholders and their percentage shares, reflecting share transactions on forms received through February 15.

(c) * * *

(6) The ''Fish House'' part of each such coupon must be given to the dealer to whom the wreckfish are transferred in amounts totaling the eviscerated weight of the wreckfish transferred to that dealer. Wreckfish may be transferred only to a Gulf and South Atlantic dealer permit holder, as required under § 622.170(c)(1).

(7) A dealer may first receive wreckfish only from a vessel for which a commercial permit for wreckfish has been issued, as required under § 622.170(a)(2). A dealer must receive the ''Fish House'' part of ITQ coupons in amounts totaling the eviscerated weight of the wreckfish received; enter the permit number of the vessel from which the wreckfish were received, enter the date the wreckfish were received, enter the dealer's permit number, and sign each such ''Fish House'' part; and submit all such parts with the electronic dealer reports required by § 622.5(c).

* * * * *

(d) * * *

(4) If a wreckfish harvested by a vessel that has been issued a commercial vessel permit for South Atlantic snapper-grouper and a commercial vessel permit for wreckfish is to be offloaded at a location other than a fixed facility of a dealer who holds a Gulf and South Atlantic dealer permit, as required under § 622.170(c)(1), the wreckfish shareholder or the vessel operator must advise the NMFS Office for Law Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727–824–5344), of the location not less than 24 hours prior to offloading.

■ 16. In § 622.176, paragraph (c) is revised to read as follows:

**§ 622.176 Recordkeeping and reporting.**

* * * * *

(c) *Dealers.* (1) A dealer who first receives South Atlantic snapper-grouper (including wreckfish) must maintain records and submit information as specified in § 622.5(c).

(2) On demand, a dealer who has been issued a Gulf and South Atlantic dealer permit, as required under § 622.170(c)(1), must make available to an authorized officer all records of offloadings, purchases, or sales of South Atlantic snapper-grouper (including wreckfish).

* * * * *

■ 17. In § 622.192, paragraphs (b) and (c) are revised to read as follows:

**§ 622.192 Restrictions on sale/purchase.**

* * * * *

(b) South Atlantic snapper-grouper harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for South Atlantic snapper-grouper may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.170(c)(1).

(c) South Atlantic snapper-grouper harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.170(a), only from a vessel that has a valid commercial permit for South Atlantic snapper-grouper.

* * * * *

■ 18. In § 622.200, the heading of paragraph (c) and paragraph (c)(1) are revised to read as follows:

**§ 622.200 Permits.**

* * * * *

(c) *Dealer permits and conditions*—(1) *Permits.* For a dealer to first receive South Atlantic rock shrimp harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

* * * * *

■ 19. In § 622.203, paragraph (b) is revised to read as follows:

**§ 622.203 Recordkeeping and reporting.**

* * * * *

(b) *South Atlantic rock shrimp dealers.* (1) A dealer who first receives South Atlantic rock shrimp must maintain records and submit information as specified in § 622.5(c).

(2) On demand, a dealer who has been issued a Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1), must make available to an authorized officer all records of offloadings, purchases, or sales of rock shrimp.

■ 20. In § 622.209, paragraphs (a)(2) and (3) are revised to read as follows:

**§ 622.209 Restrictions on sale/purchase.**

(a) * * *

(2) Rock shrimp harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for South Atlantic rock shrimp may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1).

(3) Rock shrimp harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1), only from a vessel that has a valid commercial vessel permit for rock shrimp.

* * * * *

■ 21. In § 622.240, paragraph (b)(1) is revised to read as follows:

**§ 622.240 Permits.**

* * * * *

(b) * * *

(1) *Permits.* For a dealer to first receive South Atlantic golden crab harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

* * * * *

■ 22. In § 622.242, paragraph (b) is revised to read as follows:

**§ 622.242 Recordkeeping and reporting.**

* * * * *

(b) *Dealers.* A dealer who first receives South Atlantic golden crab must maintain records and submit information as specified in § 622.5(c).

■ 23. In § 622.250, paragraphs (c) and (d) are revised to read as follows:

**§ 622.250 Restrictions on sale/purchase.**

* * * * *

(c) A golden crab harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for South Atlantic golden crab may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.240(b)(1).

(d) A golden crab harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.240(b)(1), only from a vessel that has a valid commercial vessel permit for golden crab.

■ 24. In § 622.270, the heading of paragraph (d) and paragraph (d)(1) are revised to read as follows:

**§ 622.270 Permits.**

* * * * *

(d) *Dealer permits and conditions*—(1) *Permits.* For a dealer to first receive Atlantic dolphin or wahoo harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

* * * * *

■ 25. In § 622.271, paragraph (c) is revised to read as follows:

**§ 622.271 Recordkeeping and reporting.**

* * * * *

(c) *Dealers.* (1) A dealer who first receives Atlantic dolphin or wahoo must maintain records and submit information as specified in § 622.5(c).

(2) *Alternate SRD.* For the purpose of § 622.5(c), in the states from Maine through Virginia, or in the waters off those states, ''SRD'' means the Science and Research Director, Northeast Fisheries Science Center, NMFS, or a designee.

(3) On demand, a dealer who has been issued a Gulf and South Atlantic dealer permit, as required under § 622.270(d)(1), must make available to an authorized officer all records of offloadings, purchases, or sales of Atlantic dolphin or wahoo.

■ 26. Section 622.279 is revised to read as follows:

**§ 622.279 Restrictions on sale/purchase.**

(a) Dolphin or wahoo harvested in or from the Atlantic EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for Atlantic dolphin and wahoo, as required under § 622.270(a)(1), or by a vessel authorized a 200-lb (91-kg) trip limit for dolphin or wahoo, as specified in § 622.278(a)(2), may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.270(d)(1).

(b) In addition to the provisions of paragraph (a)(1) of this section, a person may not sell dolphin or wahoo possessed under the recreational bag limit harvested in the Atlantic EEZ or adjoining state waters by a vessel while it is operating as a charter vessel or headboat. A dolphin or wahoo harvested or possessed by a vessel that is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for Atlantic dolphin and wahoo may not be purchased or sold if harvested in or from the Atlantic EEZ or adjoining state waters.

(c) Dolphin or wahoo harvested in or from the Atlantic EEZ may be first received only by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.270(d)(1), and only from a vessel authorized to sell dolphin and wahoo under paragraph (a)(1) of this section.

(b) [Reserved]

■ 27. In § 622.370, paragraph (c) is revised and paragraph (d) is added to read as follows:

**§ 622.370 Permits.**

* * * * *

(c) *Dealer permits and conditions*—(1) *Permits.* For a dealer to first receive Gulf or South Atlantic coastal migratory pelagic fish harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(2) *State license and facility requirements.* To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(d) *Permit procedures.* See § 622.4 for information regarding general permit procedures including, but not limited to application, fees, duration, transfer, renewal, display, sanctions and denials, and replacement.

■ 28. In § 622.374, paragraph (c) is revised to read as follows:

**§ 622.374 Recordkeeping and reporting.**

* * * * *

(c) *Dealers.* (1) A dealer who first receives Gulf or South Atlantic coastal migratory pelagic fish must maintain records and submit information as specified in § 622.5(c).

(2) *Alternate SRD.* For the purpose of § 622.5(c), in the states from New York through Virginia, or in the waters off those states, ''SRD'' means the Science and Research Director, Northeast Fisheries Science Center, NMFS, or a designee.

■ 29. In § 622.386, paragraphs (b) and (c) are added to read as follows:

**§ 622.386 Restrictions on sale/purchase.**

* * * * *

(b) Coastal migratory pelagic fish harvested in or from the EEZ or adjoining state waters by a vessel that has a valid Federal commercial vessel permit or a charter vessel/headboat permit may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.370(c)(1).

(c) Coastal migratory pelagic fish harvested in or from the Gulf or South Atlantic EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.370(c)(1), only from a vessel that has a valid Federal commercial vessel permit, as required under § 622.370(a), or a charter vessel/headboat permit for coastal migratory pelagic fish, as required under § 622.370(b).

■ 30. In § 622.400, the paragraph (a)(5) is added to read as follows:

**§ 622.400 Permits.**

(a) * * *

(5) *Dealer permits and conditions*—(i) *Permits.* For a dealer to first receive Gulf or South Atlantic spiny lobster harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(ii) *State license and facility requirements.* To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

* * * * *

■ 31. Add § 622.401 to read as follows:

**§ 622.401 Recordkeeping and reporting.**

(a) *Dealers.* A dealer who first receives Gulf or South Atlantic spiny lobster must maintain records and submit information as specified in § 622.5(c).

(b) [Reserved]

■ 32. Add § 622.416 to subpart R to read as follows:

**§ 622.416 Restrictions on sale/purchase.**

(a) Spiny lobster harvested in or from the EEZ or adjoining state waters by a vessel that has a valid Federal commercial vessel permit for spiny

lobster, as required under § 622.400(a)(1), or a valid Federal tail-separation permit for spiny lobster, as required under § 622.400(a)(2), may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.400(a)(5).

(b) Spiny lobster harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.400(a)(5), only from a vessel that has a valid Federal commercial vessel permit for spiny lobster or a valid Federal tail-separation permit for spiny lobster.

[FR Doc. 2013–31077 Filed 12–31–13; 8:45 am]

BILLING CODE 3510–22–P

# Notices

Federal Register

Vol. 79, No. 1

Thursday, January 2, 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.

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

**SUMMARY:** U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Submit comments on or before March 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Sylvia Joyner, Bureau for Management, Office of Management Services, Information and Records Division, U.S. Agency for International Development, Room 2.07C, RRB, Washington, DC 20523, (202) 712–5007 or via email *sjoyner@usaid.gov*.

**ADDRESSES:** Send comments via email at *lwinston@usaid.gov,* United States Agency for International Development, Bureau for Management, Office of Management Services, Information and Records Division, Ronald Reagan Building, 1300 Pennsylvania Avenue NW., Washington, DC 20523, 202–712–4832.

**SUPPLEMENTARY INFORMATION:**

*OMB No:* OMB 201312–0412–001.

*Form No:* AID 507–1.

*Title:* Freedom of Information/Privacy Act Record Request Form.

*Type of Review:* New Information Collection.

*Purpose:* The purpose of the collection is to enable the U.S. Agency for International Development to locate applicable records and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information includes sufficient personally identifiable information and/or source documents as applicable. Failure to provide the required information may result in no action being taken on the request. Information provided by a requester will be used to locate and provide the requester responsive records pursuant to the Freedom of Information Act (5 U.S.C. 552), and/or the Privacy Act of 1974 (5 U.S.C. 552a). Authority to collect this information is contained in 5 U.S.C. 552, 5 U.S.C. 552a, and 22 CFR 215.4.

*Annual Reporting Burden:*

*Respondents:* 600.

*Total annual responses:* 600.

*Total annual hours requested:* 9,000 hours.

Dated: December 24, 2013.

**Lynn Winston,**

*Division Chief, Bureau for Management, Office of Management Services, Information and Records Division.*

[FR Doc. 2013–31392 Filed 12–31–13; 8:45 am]

BILLING CODE 6116–02–P

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Agency Information Collection Activities: Proposed Collection; Comment Request—Summer Food Service Program (SFSP)

**AGENCY:** Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA)

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations in 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces FNS's intention to request OMB approval for a new information collection in support of a study of Summer Food Service Program (SFSP) State agencies, sponsoring organizations, site directors, parents or caregivers of children who participated in the program, and parents or caregivers of children who were eligible for the program but did not participate.

**DATES:** Comments on this notice must be received by March 4, 2014 to be assured of consideration.

**ADDRESSES:** 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 of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technology.

Comments may be sent to Chanchalat Chanhatasilpa, Office of Policy Support, Special Nutrition Research and Analysis Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be faxed to the attention of Mr. Chanhatasilpa at 703–305–2576; or via email to: *chanchalat.chanhatasilpa@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to: Chanchalat Chanhatasilpa, Office of Policy Support, Special Nutrition Research and Analysis Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302; telephone 703–305–2115; fax 703–305–2576.

**SUPPLEMENTARY INFORMATION:** *Title:* Application for Food and Nutrition

Service (FNS) collection of information for The Summer Food Service Program (SFSP) Implementation Study.

*OMB Number:* Not yet assigned.

*Expiration Date:* N/A.

*Type of Request:* Approval for new data collection from SFSP State agencies, sponsoring organizations, site directors, parents or caregivers of children who participated in the program, and parents or caregivers of children who were eligible for the program but did not participate.

*Abstract:* School-age children are more susceptible to food insecurity during the summer when they do not have access to meals provided at school. The SFSP was designed to ensure that children who benefit from the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) do not experience a nutrition gap during the summer. Despite ongoing efforts to increase participation, the SFSP only reaches a small fraction of all eligible children, and there is a large gap in participation levels between the NSLP and the SFSP. Therefore, the USDA needs to obtain detailed information on SFSP operation and administration at the State, sponsor, and site levels, as well as characteristics of providers, participants, and non-participants, in order to identify the factors that contribute to program participation by sponsors, sites, and children. The study will also allow the USDA to determine future changes in SFSP policy that improve program participation and operations. Since the last national study of the program, conducted in 2003, there have been significant policy changes that could impact program operation and participation. Furthermore, limited administrative data are collected at the national level on the SFSP's operations at the State agency, sponsor, and site levels.

*Affected Public:*

To evaluate how SFSP program operations and other factors contribute to participation at the State, sponsor, and site levels, as well as to study characteristics of providers, participants, and eligible non-participants, a variety of information must be obtained. Data for this study will be collected from four types of participants:

1. State agencies from all 54 States and territories, including Washington, DC, Puerto Rico, and the Virgin Islands. The data collection will involve a self-administered web survey and telephone follow-up of non-respondents with State administrators of the agencies that operate the SFSP (in some States, with the FNS regional office staff who administer the program). In addition, State agencies will be asked to provide administrative data on their sponsors, and those sponsors will provide information on their sites.

2. Program staff from a nationally representative sample of 350 current SFSP sponsors, such as School Food Authorities (SFA), government agencies, residential camps, or other nonprofit organizations. The data collection will involve a self-administered web survey with telephone follow-up of non-respondents. In addition, sponsors will be asked to provide administrative data on their sites.

3. Site directors from a nationally representative sample of 380 sites. The data collection will involve a self-administered web survey with telephone follow-up of non-respondents. In addition, up to six sites will be asked to provide contact information for their participants and eligible non-participants.

4. A convenience sample of 25 parents or caregivers of SFSP participating children and 25 eligible non-participating children. The data collection will involve interviews over the telephone.

The data will be collected on a one-time basis in 2015, beginning with collecting States' administrative records from 2/1/15 through 6/1/15. The data collection with States, sponsors, sites, participants, and nonparticipants will be conducted from 5/1/15 through 11/12/15.

*Estimate of Burden:*

Respondent burden will be minimized by using the web survey that streamlines the data collection process. Burden will also be minimized by relying on administrative records for variables that are consistently available across States, sponsors, and sites. In addition, States and sponsors will be encouraged to provide lists or other administrative records in whatever form is most convenient to them.

To obtain administrative records, the estimated burden will be:

- State Administrators: 5 hours to compile the lists of sponsors and sites
- Sponsors: 2 hours to compile the lists of sites
- Two schools or SFA sites: 2 hours to compile the lists of participants and eligible non-participants (participating in school lunch or breakfast programs).

To complete the surveys and interviews, the estimated burden will be:

- State Administrators: 1.5 hours to complete the survey.
- Sponsor Staff: 1.5 hours to complete the survey.
- Site Directors: 1 hour to complete the survey.
- Parents/Caregivers of Participants: 45 minutes to complete the telephone interview.
- Parents/Caregivers of Eligible Non-Participants: 30 minutes to complete the telephone interview.

Exhibit 1 provides estimates of the data collection burden.

EXHIBIT 1—ESTIMATED BURDEN HOURS

| Type of respondent | Number of respondents | Estimated number of responses per respondent | Estimated total annual responses | Estimated avg. number of hours per response | Estimated total hours |
|---|---|---|---|---|---|
| State Administrators | 54 | 1 | 54 | 6.5 | 351 |
| Sponsor Staff | 350 | 1 | 350 | 3.5 | 1,225 |
| Site Directors | 380 | 1 | 380 | 1.01 | 384 |
| Parents/Caregivers of Participants | 25 | 1 | 25 | 0.75 | 18.75 |
| Parents/Caregivers of Eligible Non-Participants | 25 | 1 | 25 | 0.5 | 12.5 |
| Total Burden | 834 | ..... | 834 | ..... | 1,991.25 |

Dated: December 24, 2013.

**Yvette S. Jackson,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. 2013–31359 Filed 12–31–13; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on January 22 and 23, 2014, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

**Wednesday, January 22**

*Open Session*

1. Welcome and Introductions.
2. Working Group Reports.
3. Industry Presentations.
4. New Business.

**Thursday, January 23**

*Closed Session*

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than January 15, 2014.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 5, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: December 23, 2013.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2013–31418 Filed 12–31–13; 8:45 am]

**BILLING CODE 3510–JT–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry And Security

### Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on January 28, 2014, 9:30 a.m., in the Herbert C. Hoover Building, Room 6087B, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

**Agenda**

*Public Session*

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

*Closed Session*

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than January 21, 2014.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on September 23, 2013 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Dated: December 23, 2013.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2013–31419 Filed 12–31–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–832]**

### Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On June 10, 2013, the Department of Commerce (''Department'') published the *Preliminary Results* of the 2011–2012 administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (''PRC'').[1] The period of review

[1] *See Pure Magnesium from the People's Republic of China: Preliminary Results of 2011–2012 Antidumping Duty Administrative Review,* 78 FR 34646 (June 10, 2013) (''*Preliminary Results*'') and accompanying Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, titled ''Decision Memorandum for Preliminary Results of 2011–2012 Antidumping Duty Administrative Review: Pure Magnesium from

(''POR'') is May 1, 2011, through April 30, 2012. This review covers one exporter of subject merchandise, Tianjin Magnesium Metal Co., Ltd. (''TMM'') and Tianjin Magnesium International Co., Ltd. (''TMI'') (collectively, ''TMM/TMI'').[2] We invited interested parties to comment on our *Preliminary Results.* Based on our analysis of the comments received, we made certain changes to our margin calculations for TMM/TMI. The final dumping margin for this review is listed in the ''Final Results'' section below.

**DATES:** *Effective Date:* January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Brendan Quinn or Andrew Medley, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5848 or (202) 482–4987, respectively.

## Background

On June 10, 2013, the Department published its *Preliminary Results* of the antidumping duty administrative review of pure magnesium from the PRC. Petitioner and TMM/TMI submitted publicly available information regarding surrogate values on July 15, 2013, and rebuttal surrogate value information on July 25, 2013.[3] Petitioner and TMM/TMI submitted case briefs on August 8, 2013, and rebuttal briefs on August 15, 2013.[4]

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[5] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now December 26, 2013.

## Scope of the Order

Merchandise covered by the *Order*[6] is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal.[7] Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

## Separate Rates

In the *Preliminary Results,* we found that TMM/TMI demonstrated its eligibility for separate-rate status.[8] No party has placed any evidence on the record of this review to contradict that finding. Therefore, we continue to find that TMM/TMI is eligible for separate-rate status.

## Changes Since the Preliminary Results

Based on an analysis of the comments received, for the final results, the Department made the following change to TMM/TMI's margin calculation:

- *Surrogate Value for Input Magnesium Scrap:* We have used Serbian import data for ''magnesium waste and scrap'' to value the magnesium alloy scrap input.[9]
- *Surrogate Financial Ratios:* We have used the 2011 financial statements for SOH Technologies Corp. and New Anchor Foundry Shop Co. to calculate average surrogate financial ratios.[10]

## Final Results

We determine that the following weighted-average dumping margin exists for the POR:

| Exporter | Weighted-average margin |
|---|---|
| Tianjin Magnesium International Co., Ltd [11]. | 0.03 percent (*de minimis*). |

the People's Republic of China,'' dated May 31, 2013 (''Preliminary Decision Memorandum'').

[2] In the *Preliminary Results,* the Department referred to ''TMM/TMI'' as ''TMM/Company A,'' due to the treatment of TMM's affiliation with TMI as business proprietary information. Subsequent to the *Preliminary Results,* TMM publicly disclosed its relationship with TMI, and the affiliation between the two parties was made public for the remainder of this proceeding. *See* Memorandum to the File, from Brendan Quinn, International Trade Compliance Analyst, titled, ''Memorandum Regarding the Public Treatment of Affiliation Information Previously Bracketed as Proprietary,'' dated June 25, 2013. This collapsing determination is sustained for the final results. *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled, ''2011–2012 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China: Preliminary Affiliation and Collapsing Memorandum,'' dated May 31, 2013 (''Affiliation and Collapsing Memorandum''). The collapsing decision is unchanged for these final results. *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, titled, ''Pure Magnesium from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2011–2012 Administrative Review of the Antidumping Duty Order,'' dated concurrently with this notice (''Issues and Decision Memorandum'') at Comment 5.

[3] Petitioner is the Aluminum Extrusions Fair Trade Committee.

[4] At the Department's request, TMM/TMI removed certain new factual information from its rebuttal brief and resubmitted its revised rebuttal case brief on September 25, 2013.

[5] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, titled ''Deadlines Affected by the Shutdown of the Federal Government,'' dated October 18, 2013.

[6] *See Notice of Antidumping Duty Orders: Pure Magnesium From the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium From the Russian Federation,* 60 FR 25691 (May 12, 1995) (''*Order*'').

[7] *See* Issues and Decision Memorandum for a full description of the Scope of the Order.

[8] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 7.

[9] *See* Memorandum to the File from Andrew Medley, International Trade Compliance Analyst, titled ''Final Results of the 2011–2012 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China: Surrogate Value Memorandum,'' dated December 26, 2013 (''Surrogate Value Memorandum''), and Memorandum to the File from Andrew Medley, International Trade Compliance Analyst, titled ''2011–2012 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China: Analysis of the Final Results Margin Calculation for TMM/TMI,'' dated December 26, 2013 (''TMM/TMI Final Analysis Memorandum''). *See also,* Issues and Decision Memorandum at Comment 2.

[10] *See* Surrogate Value Memorandum and TMM/TMI Final Analysis Memorandum. *See also,* Issues and Decision Memorandum at Comment 3.

**Assessment Rates**

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales.[12] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department recently announced a refinement to its assessment practice in NME cases.[13] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see NME Antidumping Proceedings.*

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For TMM/TMI, the cash deposit rate will be zero; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 111.73 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification to Interested Parties**

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 26, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

**Appendix**

Comment 1: Surrogate Country
Comment 2: Surrogate Value for Input Magnesium Scrap
Comment 3: Surrogate Financial Statements
Comment 4: Whether Alleged Translation Errors and Omissions Warrant an Adverse Inference
Comment 5: Whether the Department Should Collapse TMM and TMI and therefore Assign a Single AD Rate to the Collapsed Entity
Comment 6: Whether To Identify the Collapsed Affiliate in Customs Instructions
Comment 7: Updating the PRC-Wide Rate

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[11] For these final results, the Department has collapsed Tianjin Magnesium International Co., Ltd. and Tianjin Magnesium Metal Co., Ltd. As a result of this collapsing, the cash deposit rate for shipments of pure magnesium from the People's Republic of China exported by Tianjin Magnesium International Co., Ltd. also applies to exports of this merchandise by Tianjin Magnesium Metal Co., Ltd.

[12] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[13] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (''*NME Antidumping Proceedings*'').

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–967]**

### Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on aluminum extrusions from the People's Republic of China (''PRC''). The period of review (''POR'') is November 12, 2010, through April 30, 2012. These final results cover 62 companies for which an administrative review was initiated,[1] and for which this administrative review was not rescinded in the *Preliminary Results.*[2] For these final

[1] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 40565 (July 10, 2012) (''*Initiation Notice*''). In the Initiation Notice, 67 companies are listed. However, there were entries for Taishan City Kam Kiu Aluminum Extrusion Co., Ltd. and Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. which appear to be the same entity, with the result that the Department considers the *Initiation Notice* to cover 66 companies.

[2] See Aluminum Extrusions From the People's Republic of China: Preliminary Results of

results, the Department examined two mandatory respondents which include three companies for which this review was initiated. The first mandatory respondent is Kromet International, Inc. (''Kromet'') for which the Department finds for these final results did not make sales of subject merchandise at less than normal value. The second mandatory respondent the Department has continued to find is a single entity, collectively Zhongya/Guang Ya Group/Xinya, comprised of Zhaoqing New Zhongya Aluminum Co., Ltd. a.k.a. Guangdong Zhongya Aluminum Company Limited (''Zhongya''); Guangya Aluminum Industrial Co., Ltd. (''Guang Ya''), Foshan Guangcheng Aluminum Co., Ltd. (''Guangcheng'')[3] (collectively ''Guang Ya Group''); and Foshan Nanhai Xinya Aluminum & Stainless Steel Products Co., Ltd. (''Xinya'').[4] The Department finds for these final results that the Zhongya/Guang Ya Group/Xinya entity failed to demonstrate that it was eligible for a separate rate and thus it is part of the PRC-wide entity. Furthermore, the Department finds that ten (including Kromet) of the other companies under review have established their eligibility for a separate rate. The Department finds that the remaining companies under review either failed to establish their eligibility for a separate rate or were not responsive, and, therefore, these companies are part of the PRC-wide entity.

**DATES:** *Effective Date:* January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Demitrios Kalogeropoulos, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–2623, respectively.

## Background

On June 11, 2013, the Department published the *Preliminary Results* of this administrative review. At that time, we invited interested parties to comment on the *Preliminary Results*.[5]

On August 26, 2013 we received case briefs from the Aluminum Extrusions Fair Trade Committee (''Petitioner'');[6] Zhongya; the Government of China (''GOC''); Shenzhen Hudson Technology Development Co., Ltd. (''Shenzhen Hudson''); Skyline Exhibit Systems (Shanghai) Co., Ltd. (''Skyline''); Newell Rubbermaid Inc. (''Newell''); Zhongshan Gold Mountain Aluminum Factory Ltd. (''ZGM'') and Gold Mountain International Development Limited (''GMID''); Dongguan Golden Tiger Hardware Industrial Co., Ltd. (''Golden Tiger''), Guangdong Whirlpool Electrical Appliances Co. Ltd. (''Guangdong Whirlpool''), Hanyung Alcobis Co., Ltd. (''Hanyung Alcobis''), Henan New Kelong Electrical Appliances Co., Ltd. (''New Kelong''), and Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd. (''Tongtai''); Xin Wei Aluminum Company Limited, Guang Dong Xin Wei Aluminum Products Co., Ltd. and Xin Wei Aluminum Co., Ltd. (collectively ''Xin Wei''); and Electrolux North America, Inc., Electrolux Home Products, Inc. and Electrolux Major Appliances (collectively ''Electrolux'').[7]

On September 12, 2013 we received rebuttal briefs from the Petitioner; Kromet; Zhongya; the GOC; and ZGM and GMID.[8] On September 26, 2013, the Department extended the deadline for the final results until December 9, 2013.[9] On October 18, 2013, the Department tolled this deadline by 16 days until December 25, which is a federal holiday.[10] Therefore, the extended deadline is the next business day, which is Thursday, December 26, 2013.[11] At Zhongya's request, we held a hearing on November 20, 2013.[12]

## Scope of the Order

The merchandise covered by the *Order*[13] is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).[14]

Antidumping Duty Administrative Review and Rescission, in Part, 2010/12, 78 FR 34986 (June 11, 2013) (''Preliminary Results'') (where the Department rescinded this administrative review for four companies: Alnan Aluminium Co., Ltd., Changshu Changsheng Aluminum Products Co., Ltd., Pingguo Asia Aluminum Co., Ltd., and Taishan City Kam Kiu Aluminum Extrusion Co., Ltd.).

[3] No review was initiated for Guangcheng, however, this company did provide a Q&V response.

[4] No review was initiated for Xinya, however, this company did provide a Q&V response.

[5] See Preliminary Results at 34988.

[6] The individual members of the Committee are Aerolite Extrusion Company; Alexandria Extrusion Company; Benada Aluminum of Florida, Inc.; William L. Bonnell Company, Inc.; Frontier Aluminum Corporation; Futural Industries Corporation; Hydro Aluminum North America, Inc.; Kaiser Aluminum Corporation; Profile Extrusion Company; Sapa Extrusions, Inc.; and Western Extrusions Corporation.

[7] *See* letters from (1) Petitioner, ''Aluminum Extrusions from the People's Republic of China: Case Brief'' (''Petitioner's Case Brief''); (2) Zhongya, ''Aluminum Extrusions from China'' (''Zhongya's Case Brief''), (3) Electrolux, ''Aluminum Extrusions from the People's Republic of China: Case Brief'' (''Electrolux's Case Brief''), (4) The GOC, ''Aluminum Extrusions from China; 1st AD Administrative Review GOC Case Brief'' (''GOC's Case Brief''), (5) Xin Wei, ''Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Case Brief'' (''Xin Wei's Case Brief''), (6) Golden Tiger *et al.,* ''Aluminum Extrusions from The People's Republic of China (First Antidumping Duty Administrative Review): Case Brief of Dongguan Golden Tiger Hardware Industrial Co., Ltd., Guangdong Whirlpool Electrical Appliances Co. Ltd., Hanyung Alcobis Co., Ltd., Henan New Kelong Electrical Appliances Co., Ltd., and Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd.'' (''Golden Tiger *et al.*'s Case Brief''), (7) ZGM and GMID, ''Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Case Brief for Consideration Prior to the Final Results'' (''ZGM and GMID's Case Brief''), (8) Newell, ''Aluminum Extrusions from the People's Republic of China: Case Brief'' (''Newell's Case Brief''), (9) Skyline, ''Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Case Brief of Skyline'' (''Skyline's Case Brief''), (10) Shenzhen Hudson, ''Shenzhen Hudson Administrative Case Brief in the First Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China'' (''Shenzhen Hudson's Case Brief''), all dated August 26, 2013. IDEX Health & Science LLC and BAND–IT–IDEX, Inc. submitted its case brief on August 2, 2013, ''Aluminum Extrusions from China: IDEX Antidumping Case Brief,'' (''IDEX Case Brief''). Jiuyuan and UQM Technology Inc. submitted their case brief on July 29, 2013, ''Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Case Brief of Shenzhen Jiuyuan Co., Ltd. and UQM Technology, Inc.'' (''Jiuyuan and UQM Case Brief'').

[8] *See* letters from (1) Petitioner, ''Aluminum Extrusions from the People's Republic of China: Rebuttal Brief,'' (''Petitioner's Rebuttal Brief''); (2) Kromet, ''Aluminum Extrusions from the People's Republic of China (First Antidumping Duty Administrative Review): Rebuttal Brief of Respondent Kromet International Inc.,'' (''Kromet's Rebuttal Brief''); (3) Zhongya, ''Aluminum Extrusions from China—Zhongya Rebuttal Brief,'' (''Zhongya's Rebuttal Brief''); (4) the GOC, ''Aluminum Extrusions from China; 1st AD Administrative Review GOC Rebuttal Brief,'' (''The GOC's Rebuttal Brief''); and (5) ZGM and GMID, ''Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Rebuttal Brief for Consideration Prior to the Final Results,'' (''ZGM and GMID's Rebuttal Brief''), all dated September 12, 2013.

[9] *See* ''Aluminum Extrusions from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated September 26, 2013.

[10] *See* the memorandum for the record ''Deadlines Affected by the Shutdown of the Federal Government,'' dated October 18, 2013.

[11] 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, 2008).

[12] *See* hearing transcript, ''In the Matter of the Antidumping Duty Order on Aluminum Extrusions from the PRC (A–570–967) (November 12, 2010 through April 30, 2012),'' filed December 2, 2013; see also ''Aluminum Extrusions from China: Request for Hearing; Extension Request,'' submitted by Zhongya on July 11, 2013.

[13] See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order, 76 FR 30650 (May 26, 2011) (''Order'').

[14] *See* ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative

Continued

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (''HTSUS''): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is dated concurrently with, and hereby adopted by, this notice.[15] A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/enforcement/*. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

Based on an analysis of the comments received from interested parties and a review of the record, the Department has made the following changes for these final results of review:

- We are correcting the weighted-average dumping margin for the PRC-wide entity. The *Preliminary Results* misstated this rate as 32.79 percent. The correct weighted-average dumping margin applicable to the PRC-wide entity is 33.28 percent, and was noted in the decision memorandum for the *Preliminary Results*.[16]
- We excluded from the margin calculation a small portion of sales which Kromet initially reported as its own, but which were actually sold by its PRC supplier.[17]
- We included an additional portion of sales that, based on the commercial invoicing date, occurred within the POR.[18]
- We changed the export subsidy adjustment applied to Kromet's weighted-average dumping margin to account for the final subsidy rates determined in the companion countervailing duty investigation.[19]
- We determined that five additional separate rate applicants have demonstrated eligibility for a separate rate in this administrative review.[20]
- We made an adjustment under section 777A(f) of the Tariff Act of 1930, as amended (''the Act'') to the antidumping duty rate assigned to separate rate respondents in the final results.[21]

**Companies Eligible for a Separate Rate**

In our *Preliminary Results,* we determined that four companies are eligible for a separate rate: GMID; Shenzhen Jiuyuan Co., Ltd. (a.k.a. Jiuyuan Co., Ltd. or Shenzhen Jiuyuan Import and Export Co., Ltd.) (''Jiuyuan''); Sincere Profit Limited (''Sincere Profit''); and Skyline.[22] We have received no information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that these four companies are eligible for a separate rate.

Subsequent to the *Preliminary Results,* we received information that provides a basis for finding five additional companies eligible for a separate rate. These companies are Changzhou Tenglong Auto Parts Co., Ltd.; Dynamic Technologies China Ltd.; Xin Wei Aluminum Company Limited; Zhejiang Xinlong Industry Co., Ltd.; and ZGM.[23]

**Rate for Non-Examined Companies Which Are Eligible for a Separate Rate**

The Department has assigned to non-examined, separate rate companies the

Review: Aluminum Extrusions from the People's Republic of China,'' from Melissa G. Skinner, Director, Office III to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, dated concurrently with this notice (''Issues and Decision Memorandum'') for a complete description of the scope of the *Order.*

[15] *See* Issues and Decision Memorandum.

[16] *See* ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Aluminum Extrusions from the People's Republic of China, 2010/12,'' dated June 3, 2013, (''PDM'') at page 15.

[17] *See* Comment 2 of the accompanying Issues and Decision Memorandum.

[18] *See* ''First Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Analysis of the Final Results Margin Calculation for Kromet International'' dated concurrently with this notice (''Final Analysis Memorandum'').

[19] *Id.* and Aluminum Extrusions From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Affirmative Countervailing Duty Determination and Notice of Amended Final Affirmative Countervailing Duty Determination, 77 FR 74466 (December 14, 2012)(''*CVD Amended Final'').*

[20] *See* Comment 8 of the accompanying Issues and Decision Memorandum.

[21] *See* Comment 10 of the accompanying Issues and Decision Memorandum.

[22] See Preliminary Results at 34986.

[23] *See* Comment 8 of the accompanying Issues and Decision Memorandum.

weighted-average dumping margin assigned to non-examined, separate rate companies in the final determination of the antidumping investigation. Neither the Act nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs the Department to avoid calculating an all-others rate using any rates that are zero, *de minimis,* or based entirely on facts available in investigations. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis,* or based entirely on facts available, the Department may use ''any reasonable method'' for assigning a rate to non-examined respondents.

We determine that the application of the rate from the investigation to the non-examined separate rate respondents is consistent with precedent and the most appropriate method to determine the separate rate in the instant review. Pursuant to this method, we are assigning the rate of 32.79 percent, the most recent rate (from the less than fair value investigation) calculated for the non-examined separate rate respondents, to the non-examined separate rate respondents in the instant review.

**Adjustment Under Section 777A(f) of the Act**

Pursuant to section 777A(f) of the Act, the Department has made an adjustment for countervailable domestic subsidies which have been found to have impacted the U.S. prices. For the non-examined companies which are eligible for a separate rate, as noted above, their weighted-average dumping margin is based on the weighted-average dumping margin for non-examined, separate rate companies in the antidumping investigation. This rate was based on the average petition rates, which were based on prices for sales of subject merchandise to the United States. In the companion countervailing duty investigation, the Department did not individually examine the PRC exporter(s) underlying the prices and, therefore, they would be part of the all-other exporters in the amended final determination for the CVD investigation. Accordingly, the adjustment to account for domestic subsidies is based on the countervailing duties found for all-other exporters. The amount of these countervailing duties which are passed through to the U.S. prices is found to be the rate determined for Kromet in these final results, which is based on data from Bloomberg.[24] For Kromet, no such adjustment is necessary because Kromet's weighted-average dumping margin is zero.

Pursuant to section 772(c)(1)(C) of the Act, the Department has also made an adjustment for countervailable export subsidies. For Kromet, an adjustment has been made to its U.S. price as reported in its U.S. sales database.[25] For the companies eligible for a separate rate, an adjustment has been made based on the countervailable export subsidy found for all-other exporters in the amended final determination for the countervailing duty investigation.[26]

**PRC-Wide Entity**

In the *Preliminary Results,* the Department determined that the mandatory respondent Zhongya/Guang Ya Group/Xinya was not eligible for a separate rate, and, accordingly, was found to be part of the PRC-wide entity. The Department has received no information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that Zhongya/Guang Ya Group/Xinya is not eligible for a separate rate and is part of the PRC-wide entity.

In the *Preliminary Results,* the Department also found the following 25 companies to be part of the PRC-wide entity: Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.; Foshan Shunde Aoneng Electrical Appliances Co., Ltd.; Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.; Isource Asia Limited and affiliates; Kunshan Giant Light Metal Technology Co., Ltd.; Midea Air-Conditioning Equipment Co., Ltd.; Nidec Sankyo Singapore Pte. Ltd.; Nidec Sankyo (Zhejang) Corporation; Ningbo Coaster International Co., Ltd.; Shanghai Dongsheng Metal; Shanghai Shen Hang Imp. & Exp. Co., Ltd.; Sihui Shi Guo Yao Aluminum Co., Ltd.; Suzhou JRP Import & Export Co., Ltd.; Tianjin Gangly Nonferrous Metal Materials Co., Ltd.; Activa International Incorporated; Changzhou Changfa Power Machinery Co., Ltd.; Foshan Yong Li Jian Alu. Ltd. Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.; Jiaxing Taixin Metal Products Co., Ltd.; Metaltek Metal Industry Ltd.; Zhejuang Zhengte Group Co., Ltd.; Clear Sky Inc.; Zhuhai Runxingtai Electrical Equipment Co., Ltd.; Shandong Huasheng Pesticide Machinery Co.; and North China Aluminum Co., Ltd. The Department has received no information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that these 25 companies are not eligible for a separate rate and are part of the PRC-wide entity.

In the *Preliminary Results,* the Department identified 29 companies[27] for which it was seeking additional information regarding each company's eligibility for a separate rate. As noted above, four of these companies provided additional information to substantiate their eligibility for a separate rate. One company, Allied Maker Limited, had submitted a Q&V response as well as a SRA but was never under review; therefore, the Department is not considering this company as part of these final results. For the remaining 24 companies, each did not provide the requested information to substantiate a suspended AD/CVD entry for eligibility for a separate rate, and, therefore, for these final results, are found to be part of the PRC-wide entity. These companies are Acro Import and Export Corp.; Changzhou Changzheng Evaporator Co., Ltd.; Dongguan Aoda Aluminum Co., Ltd.; Dongguan Golden Tiger Hardware Industrial Co., Ltd.; Global PMX (Dongguan) Co., Ltd.; Gree Electric Appliances, Inc. of Zhuhai; Guangdong Whirlpool Electrical Appliances Co., Ltd.; Hangzhou Xingyi Metal Products Co., Ltd.; Hanyung Alcobis Co., Ltd.; Henan New Kelong Electrical Appliances Co., Ltd.; IDEX Dinglee Technology (Tianjin) Co., Ltd.; Jiangsu Changfa Refrigeration Co., Ltd.; Jiaxing Jackson Travel Products Co., Ltd.; Justhere Co., Ltd.; Metaltek Group Co., Ltd.; Midea International Trading Co., Ltd.; Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd; Shenzhen Hudson Technology Development Co., Ltd.; Suzhou New Hongji Precision Part Co., Ltd.; Taizhou Lifeng Manufacturing Corp.; Tianjin Jinmao Import & Export Corp., Ltd.; Union Industry (Asia) Co., Limited;

[24] *See* PDM at Attachment 2.

[25] *See* Final Analysis Memorandum.

[26] See CVD Amended Final.

[27] In the *Preliminary Results,* the Department considered Xin Wei Aluminum Company Limited, Guang Dong Xin Wei Aluminum Products Co., Ltd., and Xin Wei Aluminum Co., Ltd. as one company where as they are three separate entities. For these final results, these three separate entities have been considered individually. As a result, the 27 companies referenced in footnote 8 of the *Preliminary Results* encompass 29 companies for which a review was initiated.

Guang Dong Xin Wei Aluminum Products Co., Ltd.; and Xin Wei Aluminum Co., Ltd.

One other company for which a review was initiated has submitted neither a Q&V response nor a separate rate application and is considered part of the PRC-wide entity. This company is Zhaoquing Asia Aluminum Factory.

**Rate for the PRC-Wide Entity**

For the PRC-wide entity, the Department in the *Preliminary Results* assigned the rate of 33.28 [28] percent, the only rate ever determined for the PRC-wide entity in this proceeding. Because this rate is the same as the rate for the PRC-wide entity from previously completed segments in this proceeding and nothing on the record of the instant review calls into question the reliability of this rate, we find it appropriate to continue to apply the rate of 33.28 percent to the PRC-wide entity.

**Final Results of Review**

As a result of this review, we determine that the following weighted-average dumping margins exist for the period November 12, 2010, through April 30, 2012:

| Exporter | Weighted-average dumping margin (percent) |
|---|---|
| Kromet International, Inc. | 0.00 |
| Sincere Profit Limited | 32.79 |
| Skyline Exhibit Systems (Shanghai) Co., Ltd | 32.79 |
| Gold Mountain International Development Limited | 32.79 |
| Shenzhen Jiuyuan Co., Ltd | 32.79 |
| Dynamic Technologies China Ltd | 32.79 |
| Zhejiang Xinlong Industry Co., Ltd | 32.79 |
| Changzhou Tenglong Auto Parts Co., Ltd | 32.79 |
| Xin Wei Aluminum Company Limited | 32.79 |
| Zhongshan Gold Mountain Aluminum Factory Ltd | 32.79 |
| PRC-wide Entity | 33.28 |

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Assessment Rates**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).[29] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For Kromet, we will instruct CBP to liquidate all appropriate entries without regard to antidumping duties because Kromet's weighted-average dumping margin is zero percent. For the nine non-examined, separate rate companies, we will instruct CBP to liquidate all appropriate entries at a rate based on 32.79 percent and adjusted for both export and domestic subsidies as described above. For the PRC-wide entity, we will instruct CBP to liquidate all appropriate entries at a rate equal to 33.28 percent.

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see NME Antidumping Proceedings, supra.*

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin identified in ''Final Results of the Review,'' and adjusted for applicable export and domestic subsidies; (2) for previously investigated or reviewed PRC and non-PRC exporters that are not under review in this segment of the proceeding but that received a separate rate in a previous segment, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will continue to be the PRC-wide rate of 33.28 percent; [30] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification to Interested Parties**

In accordance with 19 CFR 351.305(a)(3), this notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under the APO. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

[28] The PRC-wide Entity cash deposit rate was misstated in the *Preliminary Results* as 32.79 percent. The correct cash deposit rate applicable to the PRC-wide Entity for these final results is 33.28 percent. *See* the PDM at page 15.

[29] See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8103 (February 14, 2012).

[30] This rate was established in the final results of the original less than fair value investigation. See Aluminum Extrusions From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,

76 FR 18524 (April 4, 2011). This includes Zhongya/Guang Ya Group/Xinya.

Dated: December 26, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary For Antidumping and Countervailing Duty Operations.*

## Appendix I

**Issues for the Final Results**

*Issues Relating to Kromet*

Comment 1: Whether To Continue To Use the Philippines as the Surrogate Country
Comment 2: Whether to Continue To Treat Kromet as the Exporter
Comment 3: Whether To Adjust Kromet's Sales Prices To Account for Taxes Paid

*Issues Relating to Zhongya*

Comment 4: Whether to Collapse Zhongya, the Guang Ya Group, and Xinya
Comment 5: Whether the Guang Ya Group and Xinya Should Be Treated as Part of the PRC-Wide Entity
Comment 6: Whether AFA Should Be Applied to Zhongya
Comment 7: Whether the Department Should Request Certain Additional Information From Zhongya

*Issues Relating to Separate Rate Applicants*

Comment 8: Whether Absence of a Suspended Entry Is a Basis for Denying a Separate Rate
Comment 9: Calculation of the AD Margin Assigned to the Separate Rate Respondents
Comment 10: How To Adjust the Separate Rate for Double Counting Under Section 777A(f) of the Act
Comment 11: Whether the Margin Assigned to the Separate Rate Respondents in the Preliminary Results was an AFA Rate
Comment 12: Whether GMID and Zhongshan Gold Mountain Aluminium Factory Ltd. Are Both Eligible for Separate Rate Status
Comment 13: Whether Suppliers for Electrolux and Newell Should Be Subsumed Within Their Exporter's Rate
Comment 14: Whether AD Duties Should Only Be Assessed on IDEX After the Date of the Department's Initiation of a Formal Scope Inquiry

[FR Doc. 2013–31408 Filed 12–31–13; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–937]**

### Citric Acid and Certain Citrate Salts From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2011–2012

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') published its *Preliminary Results* of the administrative review of the antidumping duty order on citric acid and certain citrate salts from the People's Republic of China (''PRC'') on June 10, 2013.[1] The period of review (''POR'') is May 1, 2011, through April 30, 2012. We gave interested parties an opportunity to comment on the *Preliminary Results.* Based upon our analysis of the comments received, we have made no changes to the margin calculations for these final results. We continue to find that the respondent, RZBC Imp. & Exp. Co., Ltd. (''RZBC I&E'')[2] has not sold subject merchandise at less than normal value (''NV''), and that Yixing Union Biochemical Ltd. (''Yixing Union'') had no shipments of subject merchandise during the POR. The final dumping margins are listed below in the ''Final Results of the Review'' section of this notice.

**DATES:** *Effective Date:* January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Maisha Cryor or Krisha Hill, 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) 482–5831 or (202) 482–4037, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On June 10, 2013, the Department published the *Preliminary Results* of this administrative review.[3] The Department conducted a verification of RZBC between September 9 and September 13, 2013.[4] The Department extended the deadline for submission of case briefs until one week after the verification report release date and the deadline for rebuttal briefs until five days after the submission of case briefs.[5] On July 10, 2013, RZBC and Petitioners submitted hearing requests to address issues raised in their case and rebuttal case briefs. Petitioners and RZBC withdrew their hearing requests on November 18, 2013, and November 21, 2013, respectively. On November 7, 2013, RZBC submitted a case brief.[6] On November 12, 2013, Petitioners submitted a rebuttal brief.[7]

On August 6, 2013, the Department extended the deadline in this proceeding by 60 days.[8] As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, 2013, through October 16, 2013.[9] Therefore, all deadlines in this segment of the proceeding were extended by 16 days. Further, because the new deadline in the instant review falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.[10] Therefore, the revised deadline for the final results of this review is December 26, 2013.

### Scope of the Order

The scope of the order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate.[11] Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium

[1] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2011–2012,* 78 FR 34642 (June 10, 2013) (''*Preliminary Results*'').

[2] The Department initiated the third administrative review on RZBC Co., Ltd. (''RZBC Co.''), RZBC I&E, and RZBC (Juxian) Co., Ltd. (collectively ''RZBC''). Only RZBC I&E exported subject merchandise to the United States during the POR.

[3] *See id.*

[4] *See* Memorandum to the File, from Edward Yang, Director, Office 9, Taija Slaughter, Program Manager, Office of Accounting, and Krisha Hill, International Trade Compliance Analyst, Office 4, ''Verification Report of the Sales and Factors Responses of RZBC Co., Ltd., RZBC Import & Export Co., Ltd., and RZBC (Juxian) Co., Ltd. in the Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China'' (October 30, 2013).

[5] *See* Memorandum To The File, ''Schedule for submission of Briefs and Rebuttal Briefs: Citric Acid and Certain Citrate Salts from the People's Republic of China'' (October 31, 2013).

[6] *See* RZBC's ''Citric Acid and Citrate Salt from the People's Republic of China: RZBC Case Brief,'' (November 7, 2013).

[7] *See* Petitioners' ''Citric Acid and Certain Citrate Salts From the People's Republic of China: Petitioners' Rebuttal Brief,'' (November 12, 2013).

[8] *See* Memorandum to Christian Marsh, ''Citric Acid and Certain Citrate Salts from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review'' (August 6, 2013).

[9] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for the Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

[10] *See e.g.,* Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Final Results and Final No Shipments Determination of Antidumping Duty Administrative Review; 2011–2012, 78 FR 76279 (December 17, 2013).

[11] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance ''Citric Acid and Certain Citrate Salts from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2011–2012 Antidumping Duty Administrative Review'', issued concurrently with this notice (''Issues and Decision Memorandum'') for a complete description of the scope of the Order.

citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (''HTSUS''), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

**Final Determination of No Shipments**

For these final results of review, we continue to find that Yixing Union had no shipments during the POR.[12]

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties are addressed in the Issues and Decision Memorandum, which is hereby adopted by this **Federal Register** notice. A list of the issues which parties raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have made no revisions to the margin calculations for RZBC I&E.

**Separate Rates**

In our *Preliminary Results,* we determined that RZBC I&E met the criteria for separate rate status.[13] We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that RZBC I&E meets the criteria for separate rate status.

**Final Results of the Review**

The dumping margins for the POR are as follows:

| Exporter | Weighted-average margin (percent) |
|---|---|
| RZBC Imp. & Exp. Co., Ltd. | 0.00 |

**Assessment Rates**

The Department will determine, and Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales.[14] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department recently announced a refinement to its assessment practice in Non-Market Economy (''NME'') cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see Assessment in NME Antidumping Proceedings.*[15]

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (''the Act''): (1) For Yixing Union, which claimed no shipments, the cash deposit will remain unchanged from the rate assigned to Yixing Union in the most recently completed review of the company; (2) For RZBC I&E, because the rate is zero, no cash deposit will be required; (3) for previously investigated or reviewed PRC and non-PRC exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (4) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity established in the final determination of the less than fair value investigation (*i.e.,* 156.87 percent); and (5) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Notification to Importers Regarding the Reimbursement of Duties**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

[12] *See Preliminary Results,* 78 FR at 34642.

[13] *See Preliminary Results,* 78 FR at 34642, and accompanying Issues and Decision Memorandum at 4–6.

[14] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[15] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (''*Assessment in NME Antidumping Proceedings*'').

**Administrative Protective Order**

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: December 26, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

**Appendix I—Issues and Decision Memorandum**

**General Issues**

COMMENT 1: WATER SURROGATE VALUE
COMMENT 2: LIQUIDATION INSTRUCTIONS
COMMENT 3: NEW FACTUAL INFORMATION
COMMENT 4: PUBLIC VERSION
COMMENT 5: CO-PRODUCT VALUATION
COMMENT 6: REVOCATION FOR RZBC

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

**Respondent Selection**

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, except for the review of the antidumping duty order on Wooden Bedroom Furniture from the People's Republic of China (A–570–890), the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

If the Department limits the number of respondents selected for individual examination in the administrative review of the antidumping duty order on Wooden Bedroom Furniture from the People's Republic of China (A–570–890), it intends to select respondents based on volume data contained in responses to quantity and value questionnaires. Further, due to the unique circumstances present in administering this order, for the purposes of this segment of the proceeding, *i.e.,* the 2013 review period, the Department has decided to require that all parties filing separate rate applications or certifications respond to the Q&V questionnaire and certain additional questions. The Q&V questionnaire, the additional questions, and the Separate Rate Application and Separate Rate Certification will be included in a document package that will be available on the Department's Web site. Responses to the additional questions and to the Q&V questionnaire will be due at the same time that responses to the Separate Rate Application and Separate Rate Certification are due unless otherwise noted by the Department.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

**Deadline for Withdrawal of Request for Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after January 2014, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

*Opportunity to Request a Review:* Not later than the last day of January 2014,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in January for the following periods:

| | Period of review |
|---|---|
| **Antidumping Duty Proceedings** | |
| BRAZIL: Prestressed Concrete Steel Wire Strand, A–351–837 | 1/1/13–12/31/13 |
| INDIA: Prestressed Concrete Steel Wire Strand, A–533–828 | 1/1/13–12/31/13 |
| MEXICO: Prestressed Concrete Steel Wire Strand, A–201–831 | 1/1/13–12/31/13 |
| REPUBLIC OF KOREA: Prestressed Concrete Steel Wire Strand, A–580–852 | 1/1/13–12/31/13 |
| SOUTH AFRICA: Ferrovanadium, A–791–815 | 1/1/13–12/31/13 |
| THAILAND: Prestressed Concrete Steel Wire Strand, A–549–820 | 1/1/13–12/31/13 |
| THE PEOPLE'S REPUBLIC OF CHINA: | |
| Crepe Paper Products, A–570–895 | 1/1/13–12/31/13 |
| Ferrovanadium, A–570–873 | 1/1/13–12/31/13 |
| Folding Gift Boxes, A–570–866 | 1/1/13–12/31/13 |
| Potassium Permanganate, A–570–001 | 1/1/13–12/31/13 |
| Wooden Bedroom Furniture, A–570–890 | 1/1/13–12/31/13 |
| **Countervailing Duty Proceedings** | |
| THE PEOPLE'S REPUBLIC OF CHINA: | |
| Certain Oil Country Tubular Goods, C–570–944 | 1/1/13–12/31/13 |
| Circular Welded Carbon Quality Steel Line Pipe, C–570–936 | 1/1/13–12/31/13 |
| **Suspension Agreements** | |
| RUSSIA: Certain Cut-To-Length Carbon Steel Plate, A–821–808 | 1/1/13–12/31/13 |

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department has clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[2] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov. See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of January 2014. If the Department does not receive, by the last day of January 2014, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 24, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2013–31423 Filed 12–31–13; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**Background**

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

**Upcoming Sunset Reviews for February 2014**

The following Sunset Reviews are scheduled for initiation in February 2014 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

| | Department Contact |
|---|---|
| **Antidumping Duty Proceedings** | |
| Barium Carbonate from China (A–570–880) (2nd Review) | Charles Riggle, (202) 482–0650. |
| Circular Welded Austenitic Stainless Pressure Pipe from China (A–570–930) (1st Review). | Charles Riggle, (202) 482–0650. |
| Refined Brown Aluminum Oxide from China (A–570–882) (2nd Review) | David Goldberger, (202) 482–4136. |
| **Countervailing Duty Proceedings** | |
| Circular Welded Austenitic Stainless Pressure Pipe from China (C–570–931) (1st Review). | David Goldberger, (202) 482–4136. |
| **Suspended Investigations** | |
| No Sunset Review of any suspended investigations is scheduled for initiation in February 2014.. | |

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate

[2] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 23, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2013–31406 Filed 12–31–13; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–968]**

### Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (PRC). On June 10, 2013, the Department published the *Preliminary Results* for this administrative review.[1] The period of review (POR) is September 7, 2010, through December 31, 2011. We determine that the Alnan Companies[2] and Changzhou Changzheng Evaporator Co., Ltd. (Changzheng Evaporator) received countervailable subsidies during the POR.

**DATES:** *Effective Date:* January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Robert Copyak and Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2209 and (202) 482–4793, respectively.

**Scope of the Order**

The merchandise covered by the *Order*[3] is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).[4]

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.29.50.60, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.[5]

**Analysis of Comments Received**

All issues raised in the case briefs and rebuttal briefs are addressed in the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review: Aluminum Extrusions from the People's Republic of China'' (Final Decision Memorandum), dated concurrently with this notice, which is hereby adopted by this notice. A list of topics discussed in the Final Decision Memorandum is attached to this notice as Appendix I.

The Final Decision Memorandum is a public document and is on file electronically via the Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/*. The signed Final Decision Memorandum and the electronic

[1] *See Aluminum Extrusions from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2010 and 2011,* 78 FR 34649 (June 10, 2013) (*Preliminary Results*), and accompanying Issues and Decision Memorandum.

[2] The Alnan Companies are Alnan Aluminum Co., Ltd. (Alnan Aluminum), Alnan Aluminum Foil Co., Ltd. (Alnan Foil), Alnan (Shanglin) Industry Co., Ltd. (Shanglin Industry), and Shanglin Alnan Alunimun Comprehensive Utilization Power Co., Ltd. (Shanglin Power). Kromet International Inc., one of the mandatory respondents in this administrative review, reported that it is a Canada-based company that sold subject merchandise produced by the Alnan Companies.

[3] *See Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (*Order*).

[4] *See* ''Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review: Aluminum Extrusions from the People's Republic of China,'' from Melissa Skinner, Director, Office III, Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, dated concurrently with this notice (Final Decision Memorandum) for a complete description of the scope of the *Order.*

[5] *See Order.*

version of the Final Decision Memorandum are identical in content.

**Methodology**

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific. *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

In making these findings, we are relying, in part, on facts available because the Government of the PRC did not act to the best of its ability to respond to the Department's requests for information. Further, we are drawing an adverse inference in selecting from among the facts otherwise available. *See* sections 776(a) and (b) of the Act. For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Final Decision Memorandum.

Additionally, we are relying on facts available for three companies [6] because they withheld requested information and failed to cooperate by not acting to the best of their ability to respond to the Department's quantity and value questionnaire. To calculate the *ad valorem* rate for these companies, we have drawn an adverse inference in selecting from among the facts otherwise available.[7] For derivation of the adverse facts available rate, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Final Decision Memorandum.

For a full description of the methodology underlying all of the Department's conclusions, *see* Final Decision Memorandum.

**Rate for Non-Selected Companies Under Review**

There are 49 companies for which a review was requested and not rescinded, but were not selected as mandatory respondents. We have not calculated the non-selected rate by weight- averaging the rates of the Alnan Companies and Changzheng Evaporator, because doing so risks disclosure of proprietary information. We, therefore, have calculated an average rate using the respondents' publicly ranged sales data, which are on the record for 2010 and 2011, respectively. For further information on the calculation of the non-selected rate, *see* ''Final *Ad Valorem* Rate for Non-Selected Companies under Review'' and Comment 3 in the Final Decision Memorandum.

**Final Results of the Review**

In accordance with 19 CFR 351.221(b)(5), we have calculated the listed net subsidy rates for 2010 and 2011:

| Company | 2010 *ad valorem* rate (percent) | 2011 *ad valorem* rate (percent) |
|---|---|---|
| Alnan Aluminum Co., Ltd. (Alnan Aluminum), Alnan Aluminum Foil Co., Ltd. (Alnan Foil), Alnan (Shanglin) Industry Co., Ltd. (Shanglin Industry), and Shanglin Alnan Aluminum Comprehensive Utilization Power Co., Ltd. (Shanglin Power) (collectively, the Alnan Companies) and Kromet International Inc. (Kromet) [8] | 15.97 | 15.66 |
| Changzhou Changzheng Evaporator Co., Ltd. and its cross-owned affiliate Liaoning Changzheng Aluminum Company (Changzheng Evaporator) | 1.02 | 1.51 |
| Acro Import and Export Corp | 10.23 | 9.67 |
| Changsha Hengjia Aluminum Co., Ltd | 10.23 | 9.67 |
| Changshu Changsheng Aluminum Products Co., Ltd. (Changsheng) | 10.23 | 9.67 |
| Changzhou Changfa Power Machinery Co., Ltd | 10.23 | 9.67 |
| Changzhou Tenglong Auto Parts Co., Ltd | 10.23 | 9.67 |
| Dongguan Aoda Aluminum Co., Ltd | 10.23 | 9.67 |
| Dongguan Golden Tiger Hardware Industrial Co., Ltd. (Golden Tiger) | 10.23 | 9.67 |
| Dynamic Technologies China Ltd | 10.23 | 9.67 |
| Foreign Trade Co. of Suzhou New & Hi-Tech Industrial Development Zone (Suzhou New Hi Tech) | 10.23 | 9.67 |
| Foshan Shunde Aoneng Electrical Appliances Co., Ltd. (Aoneng Electrical Appliances Co., Ltd.) | 10.23 | 9.67 |
| Global PMX (Dongguan) Co., Ltd (Global PMX) | 10.23 | 9.67 |
| Golden Dragon Precise Copper Tube Group Inc | 10.23 | 9.67 |
| Gree Electric Appliances, Inc. of Zhuhai | 10.23 | 9.67 |
| Guandong Nanhai Foodstuffs Imp & Exp Co., Ltd. (Nanhai) | 10.23 | 9.67 |
| Guangdong Grand Shine Construction Material, Co., Ltd | 10.23 | 9.67 |
| Guangdong Whirlpool Electrical Appliances Co., Ltd. (Guangdong Whirlpool) | 10.23 | 9.67 |
| Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd | 10.23 | 9.67 |
| Hangzhou Xingyi Metal Products Co., Ltd | 10.23 | 9.67 |
| Hanyung Alcobis Co., Ltd | 10.23 | 9.67 |
| Henan New Kelong Electrical Appliances, Co., Ltd | 10.23 | 9.67 |
| Huimeigao Aluminum Foshan Co., Ltd. (Huimeigao) | 10.23 | 9.67 |
| IDEX Dinglee Technology (Tianjin) Co., Ltd. (IDEX Dinglee) | 10.23 | 9.67 |
| Isource Asia Limited (Isource) | 10.23 | 9.67 |
| Jiangsu Changfa Refrigeration Co., Ltd | 10.23 | 9.67 |
| Jiaxing Jackson Travel Products Co., Ltd | 10.23 | 9.67 |
| Jiaxing Taixin Metal Products Co., Ltd | 10.23 | 9.67 |
| Justhere Co., Ltd | 10.23 | 9.67 |
| Kunshan Giant Light Metal Technology Co., Ltd. (Giant) | 10.23 | 9.67 |
| Metaltek Group Co., Ltd | 10.23 | 9.67 |
| Metaltek Metal Industry Co., Ltd | 10.23 | 9.67 |
| Midea International Trading Co., Ltd | 10.23 | 9.67 |

[6] Foshan Yong Li Jian Alu. Ltd., North China Aluminum Co., Ltd., and Tai Shan City Kam Kiu Aluminium Extrusion Co. Ltd.

[7] *See* sections 776(a) and (b) of the Act.

| Company | 2010 *ad valorem* rate (percent) | 2011 *ad valorem* rate (percent) |
|---|---|---|
| Pingguo Asia Aluminium Co., Ltd. (Pingguo) | 10.23 | 9.67 |
| Shandong Huasheng Pesticide Machinery Co | 10.23 | 9.67 |
| Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd. (Tongtai) | 10.23 | 9.67 |
| Shanxi Guanly Changzhou Hongfeng Metal Processing Co., Ltd | 10.23 | 9.67 |
| Shenzhen Hudson Technology Development Co., Ltd. (Shenzhen Hudson) | 10.23 | 9.67 |
| Shenzhen Jiuyuan Co., Ltd. (aka, Jiuyuan Co., Ltd. and Shenzhen Jiuyuan Import and Export Co., Ltd. (collectively, Jiuyuan)) | 10.23 | 9.67 |
| Sincere Profit Limited | 10.23 | 9.67 |
| Skyline Exhibit Systems (Shanghai) Co., Ltd | 10.23 | 9.67 |
| Suzhou JRP Import & Export Co., Ltd. (JRP) | 10.23 | 9.67 |
| Suzhou NewHongji Precision Part Co., Ltd. (Suzhou NewHongji) | 10.23 | 9.67 |
| Taizhou Lifeng Manufacturing Corporation | 10.23 | 9.67 |
| Tianjin Jinmao Import & Export Corp., Ltd | 10.23 | 9.67 |
| Union Industry (Asia) Co., Ltd | 10.23 | 9.67 |
| Xin Wei Aluminum Company Limited, Guang Dong Xin Wei Aluminum Products Co., Ltd., and Xin Wei Aluminum Co., Ltd. (collectively, Xin Wei) | 10.23 | 9.67 |
| Zhaoqing Asia Aluminum Factory Company Limited | 10.23 | 9.67 |
| Zhejiang Xinlong Industry Co., Ltd | 10.23 | 9.67 |
| Zhongshan Gold Mountain Aluminium Factory Ltd., Gold Mountain International Development, Limited (collectively, Zhongshan Gold Mountain) | 10.23 | 9.67 |
| Zhuhai Runxingtai Electrical Equipment Co., Ltd. (Zhuhai Runxingtai) | 10.23 | 9.67 |
| Foshan Yong Li Jian Alu. Ltd | 121.22 | 121.22 |
| North China Aluminum Co., Ltd | 121.22 | 121.22 |
| Tai Shan City Kam Kiu Aluminium Extrusion Co. Ltd | 121.22 | 121.22 |

### Assessment Rates

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption for the periods on or after September 7, 2010, through December 31, 2010, and on or after January 1, 2011, through December 31, 2011, for all the above-listed companies at the *ad valorem* assessment rate listed above, except for IDEX Dinglee. For IDEX Dinglee, the Department will issue assessment instructions to liquidate any shipments of subject merchandise entered, or withdrawn from warehouse, for consumption for the period December 1, 2011, through December 31, 2011.[9]

### Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amounts shown above for 2011 on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

### Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: December 26, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

### Appendix I

**List of Topics Discussed in the Final Decision Memorandum**

1. Summary
2. Background
3. Scope of the Order
4. Use of Facts Otherwise Available and Adverse Inferences
5. Subsidy Valuation Information
6. Loan Benchmark Rates
7. Analysis of Programs
8. Final Ad Valorem Rate for Non-Selected Companies Under Review
9. Final Ad Valorem Rate for Non-Cooperative Companies Under Review
10. Analysis of Comments
11. Conclusion

[FR Doc. 2013–31407 Filed 12–31–13; 8:45 am]

BILLING CODE 3510–DS–P

[8] The Alnan Companies are the producer of subject merchandise, and Kromet is the exporter.

[9] For more information on the assessment instructions covering IDEX Dinglee, *see* Final Decision Memorandum at Comment 5.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–938]**

### Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) has completed its administrative review of the countervailing duty (CVD) order on citric acid and certain citrate salts (citric acid) from the People's Republic of China for the period January 1, 2011, through December 31, 2011. On June 10, 2013, we published the preliminary results of this review and the post-

preliminary results were completed on November 7, 2013.[1]

We provided interested parties with an opportunity to comment on the *Preliminary Results* and Post-Preliminary Results. Our analysis of the comments submitted has resulted in a change to the net subsidy rate for RZBC Group Shareholding Co., Ltd. (RZBC Group), RZBC Co., Ltd., RZBC Juxian Co., Ltd. (RZBC Juxian), and RZBC Imp. & Exp. Co., Ltd. (collectively, RZBC or RZBC Companies). The final net subsidy rate is listed below in the section entitled ''Final Results of Review.''

**DATES:** *Effective Date:* January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Patricia M. Tran, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1503.

**SUPPLEMENTARY INFORMATION:**

## Background

Following the *Preliminary Results* and Post-Preliminary Results, we received case briefs from the Government of the People's Republic of China (GOC), RZBC Companies, and Petitioners[2] on November 18, 2013. On November 25, 2013, all parties submitted their rebuttal briefs. We held ex-parte meetings with RZBC Companies on November 27, 2013, and Petitioners on December 5, 2013.[3] Each party discussed their arguments in the case and rebuttal briefs.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. Therefore, all deadlines in this segment of the proceeding were extended by 16 days. The deadline for the final results for this segment of the proceeding was extended to Wednesday, December 25, 2013, and because December 25 is a Federal Holiday, the actual deadline is Thursday, December 26, 2013.[4]

## Scope of the Order

The merchandise subject to the order is citric acid and certain citrate salts. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 2918.14.0000, 2918.15.1000, 2918.15.5000, 3824.90.9290, and 3824.90.9290. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in *Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Countervailing Duty Order,* 74 FR 25705 (May 29, 2009), remains dispositive.

A full description of the scope of the order is contained in the memorandum from Melissa G. Skinner, Director, Office III, Antidumping and Countervailing Duty Operations to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review: Citric Acid and Certain Citrate Salts; 2011'' (Final Decision Memorandum), dated concurrently with this notice, and hereby adopted by this notice.

## Analysis of Comments Received

All issues raised in the case briefs are addressed in the Final Decision Memorandum. A list of the issues raised is attached to this notice as an Appendix. The Final Decision Memorandum is a public document and is on file electronically via IA ACCESS. IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/enforcement/.* The signed Final Decision Memorandum and the electronic versions of the Final Decision Memorandum are identical in content.

## Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (''the Act''). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific. For a full description of the methodology underlying our conclusions, *see* the Final Decision Memorandum.

In making these findings, we have relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we have drawn an adverse inference in selecting from among the facts otherwise available. For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Final Decision Memorandum.

## Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated a subsidy rate for the mandatory respondent, RZBC Companies.

| Producer/Exporter | Net subsidy rate |
|---|---|
| RZBC Co., Ltd., RZBC Juxian Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC Group Shareholding Co., Ltd | 35.87 |

## Assessment Rates

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results, to liquidate shipments of subject merchandise by RZBC Companies entered, or withdrawn from warehouse, for consumption on or after January 1, 2011, through December 31, 2011.

## Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amount shown above on shipments of subject merchandise by RZBC Companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit

[1] *See Citric Acid and Certain Citrate Salts: Preliminary Results of Countervailing Duty Administrative Review; 2011,* 78 FR 34648 (June 10, 2013) (*Preliminary Results*) and Memorandum to Paul Piquado, ''Post-Preliminary Results Decision Memorandum: Citric Acid and Certain Citrate Salts from the People's Republic of China,'' dated November 7, 2013 (Post-Preliminary Results).

[2] Petitioners are Archer Daniels Midland Company, Cargill Incorporated, and Tate & Lyle Ingredients America LLC.

[3] *See* Memoranda to the File from Patricia Tran, ''Ex-Parte Meeting with Counsel representing Petitioners'' and ''Ex-Parte Meeting with Counsel representing RZBC Companies,'' dated December 20, 2013.

[4] *See* Memorandum to the File from Patricia Tran, ''Countervailing Duty (CVD) Administrative Review: Citric Acid & Certain Citrate Salts from the People's Republic of China, covering period 1/01/2011—12/31/2011 (2011 Citric Acid from the PRC): Tolling of Final Results Deadline,'' dated October 21, 2013, which contains Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013). Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.

rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Administrative Protective Order**

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: December 26, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

**List of Topics Discussed in the Issues and Decision Memorandum**

I. Summary
II Background
III. Scope of the Order
IV. Use of Facts Otherwise Available and Adverse Inferences
V. Subsidy Valuation Information
VI. Benchmark and Discount Rates
VII. Analysis of Programs
VIII. Analysis of Comments
Comment 1: Whether There Is a Basis for the Imposition of Countervailing Duties on RZBC's Imports
Comment 2: Whether the Provision of Sulfuric Acid Is Specific Under Section 771(5A) of the Act
Comment 3: Whether the Provision of Steam Coal Is Specific Under Section 771(5A) of the Act
Comment 4: Whether the Provision of Calcium Carbonate Is Specific Under Section 771(5A) of the Act
Comment 5: Whether the Department Should Countervail Input Purchases Made Through Trading Companies and Produced by ''Authorities''
Comment 6: Whether the Certain Sulfuric Acid Producers are ''Authorities''
Comment 7: Shandong Province Policy Loans
Comment 8: Creditworthiness
Comment 9: Whether Provision of Land for Less Than Adequate Remuneration (LTAR) to Enterprises Located in Development Parks/Zones in the Donggang District Is Countervailable
Comment 10: Whether Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Shandong Province Is Countervailable
Comment 11: Whether Limestone Flux Is Calcium Carbonate and Sold at LTAR
Comment 12: Whether the Department Should Modify the Calcium Carbonate Benchmark To Use World Export Prices Derived From Chapter 28 of the Harmonized Tariff Schedule
Comment 13: Benchmark Issues
A. Whether World Market Prices for Input Benchmarks Are Reasonably Available
B. Whether To Consider Factors of Comparability to Select World Market Prices
C. Whether To Exclude Export Prices to the PRC in the Benchmark Calculation
D. Whether To Include RZBC Companies' Limestone Flux Benchmark Submission
E. Whether Benchmark Averaging Methodology is Unreasonable, Distortive, and Otherwise Not in Accordance With Law
F. The Department Should Average Import Duties When Calculating the LTAR Benchmarks
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H. Whether International Freight for Limestone Flux Is Aberrational
Comment 14: Whether To Adjust Sulfuric Acid Input Purchases by RZBC Companies
IX. Conclusion

[FR Doc. 2013–31411 Filed 12–31–13; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Initiation of Five-Year (''Sunset'') Review

**AGENCY:** Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year reviews (''Sunset Reviews'') of the antidumping and countervailing duty (''AD/CVD'') order listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

**DATES:** *Effective Date:* January 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

**Initiation of Review**

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

| DOC case No. | ITC case No. | Country | Product | Department contact |
|---|---|---|---|---|
| A–570–929 | 731–TA–1143 | China | Small Diameter Graphite Electrodes (1st Review). | David Goldberger, (202) 482–4136. |
| A–588–804 | 731–TA–394A | Japan | Ball Bearings and Parts Thereof | David Goldberger, (202) 482–4136. |
| A–412–801 | 731–TA–399A | United Kingdom | Ball Bearings and Parts Thereof | David Goldberger, (202) 482–4136. |

**Filing Information**

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the

public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), can be found at 19 CFR 351.303.[1]

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after August 16, 2013.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

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 antidumping and countervailing duty 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)–(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 segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Extension of Time Limits,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under part 351 of the Department's regulations expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

**Information Required From Interested Parties**

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[4]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)).

[4] *See* 19 CFR 351.218(d)(1)(iii).

conduct of Sunset Reviews. Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: December 23, 2013.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2013–31429 Filed 12–31–13; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Notice of Changes in the Development and Distribution of NOAA Nautical Charts and Publications

**AGENCY:** Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice to advise the public of changes to the printing and distribution of NOAA's nautical charts, including digital charts, and to seek public comment.

**SUMMARY:** NOAA is making significant changes to nautical chart printing and distribution, and is seeking public comment. This notice informs the public of the Office of Coast Survey's approach to expanding navigation products and services, and explains how mariners may continue to access the nautical charts necessary for safe navigation of U.S. waters and to meet regulatory carriage requirements.

**DATES:** Written, faxed, or emailed comments are due by midnight, February 3, 2014.

**ADDRESSES:** Submit comments by mail to Director, Office of Coast Survey, 1315 East-West Highway #6216, Silver Spring, MD 20910; or by using the online NOAA Nautical Inquiry & Comment System at *http://nauticalcharts.noaa.gov/inquiry*.

**FOR FURTHER INFORMATION CONTACT:** Visit the Web site (*http://nauticalcharts.noaa.gov*) or contact the Office of Coast Survey at the following address: NOAA, National Ocean Service, Office of Coast Survey, Marine Chart Division, 1315 East-West Highway, Silver Spring, MD 20910–32821, U.S.A.; telephone 888–990–6622; fax 301–713–4516; email *anthony.r.klemm@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** NOAA is privatizing the printing of nautical charts. Regulations that govern nautical chart and publication carriage requirements remain unchanged. These regulations are found in 33 CFR 164 and Title 46 of the U.S. Code of Federal Regulations (CFR).

After April 13, 2014, NOAA-certified Print-on-Demand (POD) charts will be the only official source available for mariners to obtain NOAA paper nautical charts. NOAA-certified POD charts, available since 1999 through certified POD partners, are official paper nautical charts that are up-to-date at the time of printing. These charts are considered ''published'' by NOAA's National Ocean Service, and therefore meet chart carriage requirements.

POD charts are currently available from NOAA commercial partners OceanGrafix (*http://www.oceangrafix.com*) and East View Geospatial (*http://www.geospatial.com*). If you are interested in becoming a POD chart provider, learn more at our Web site at *http://www.nauticalcharts.noaa.gov/pod/PODpartner.htm*.

NOAA is also making nautical chart information available digitally in three new ways, and is seeking feedback on these three changes.

1. For a three-month trial period (October 22, 2013 to January 22, 2014), NOAA is providing free digital chart image files in PDF (Portable Document Format) file format. The free PDF chart files are available for public use. The digital charts are also available as NOAA-certified Print-on-Demand charts. NOAA will evaluate the usage and user feedback to decide whether to continue providing public access to PDF nautical charts. Please note that the free PDF charts do not meet chart carriage requirements under federal regulations unless printed to NOAA quality standards by a NOAA-certified POD partner. Download PDF charts at *www.nauticalcharts.noaa.gov/pdfcharts*.

2. NOAA's Office of Coast Survey is providing high-resolution NOAA raster navigational charts (NOAA RNC®) for public testing and evaluation. The Office of Coast Survey is upgrading the image quality from the current 254 DPI to 400 DPI to improve clarity, readability, and aesthetics of this digital charting product. The evaluation dataset, which is kept up-to-date like the current RNCs, is available for download for Tampa Bay, Detroit, Long Island Sound, and Puget Sound. If no problems are identified or left unresolved, Coast Survey intends to upgrade all RNCs to 400 dpi by February 2014. Software product developers and RNC users are invited to provide comments or questions regarding this new service. Download the evaluation datasets at *www.charts.noaa.gov/RNCs_400/*.

3. An online seamless viewer of NOAA's electronic navigational charts (NOAA ENC®) is available for public use at the Web site *http://www.nauticalcharts.noaa.gov/ENCOnline/*. NOAA ENC Online optimizes the viewing of the entire ENC suite, using the display rules defined by the International Hydrographic Organization's S–52 standards, *Specifications for Chart Content and Display Aspects of ECDIS.* The public is invited to provide comments or questions regarding this new service.

**Authority:** 33 U.S.C. Chapter 17, Coast and Geodetic Survey Act of 1947.

Dated: December 16, 2013.

**Gerd Glang,**

*Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2013–31378 Filed 12–31–13; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Science Advisory Board (SAB)

**AGENCY:** Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the NOAA Science Advisory Board. The members will discuss and provide advice on issues outlined in the section on Matters To Be Considered.

*Time and Date:* The meeting is scheduled for Thursday January 23, 2014 from 4:00–5:35 p.m. Eastern Standard Time.

**ADDRESSES:** Conference call. Public access is available at: NOAA, SSMC 3, Room 10836, 1315 East-West Highway, Silver Spring, Md. Members of the public will not be able to dial in to this meeting.

*Status:* The meeting will be open to public participation with a 5-minute public comment period from 5:30–5:35 p.m. Eastern Standard Time. The SAB expects that public statements presented

at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of one minute. Written comments should be received in the SAB Executive Director's Office by January 16, 2014 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after January 16, 2014, will be distributed to the SAB, but may not be reviewed prior to the meeting date.

*Special Accommodations:* These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12 p.m. on January 16, 2014, to Dr. Cynthia Decker, SAB Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910.

**SUPPLEMENTARY INFORMATION:** The NOAA Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

*Matters To Be Considered:* The meeting will include the following topics: (1) Proposed New Members and Renewal of Member Terms for the Ecosystem Sciences and Management Working Group; (2) NOAA Response to the SAB External Review of the Ocean Exploration Program; and (3) Proposed Members for the Gulf Coast Ecosystem Restoration Science Program Advisory Working Group. For the latest agenda, please visit the SAB Web site at *http://www.sab.noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov.*)

Dated: December 27, 2013.

**Jason Donaldson,**

*Chief Financial Officer and Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2013–31431 Filed 12–31–13; 8:45 am]

BILLING CODE 3510–KD–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2013–OS–0238]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Undersecretary of Defense for Personnel & Readiness, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Undersecretary of Defense for Personnel & Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by March 3, 2014.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Director, Military Community Outreach, Military Community and Family Policy, 4000 Defense Pentagon Room 2E355, Washington, DC 20301–2400 ATTN: Ms. Beth Riffle, or 703–695–3265.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Control Number:* Military OneSource Case Management System (CMS)—Satisfaction Feedback; Military OneSource Member Survey (Counseling, Health & Wellness Coaching, Educational Materials, Document Translation, Financial, Work Life, Wounded Warrior); OMB Control Number 0704–XXXX.

*Needs and Uses:* The information collection requirement is necessary to support the Military OneSource Case Management System contract mandated Quality Control Plan (QCP) which requires a process to capture participant quality satisfaction feedback. Key quality factors include but are not limited to appropriateness, effectiveness, successful outcomes and any or all of the dimensions of quality such as accessibility, availability, efficiency, continuity, safety, timeliness and respectfulness. Council on Accreditation (COA) or URAC guidance for sample size and confidence levels shall be followed at a minimum.

*Affected Public:* Individuals or households; Federal Government.

*Annual Burden Hours:* 1,000.

*Number of Respondents:* 10,000.

*Responses per Respondent:* 1.

*Average Burden per Response:* 6 minutes.

*Frequency:* On occasion.

Respondents are military service members and their families who accessed Military OneSource for support for an inquiry or issue and agreed to provide satisfaction feedback. Respondent feedback is captured using two methods: An outreach call or via an email containing a link to the feedback Web site. When outreach calls are made, respondents are interviewed and a staff person enters those responses into a feedback form. Respondents may also elect to complete feedback via an electronic form, which is emailed to the respondent. All respondents who contact Military OneSource are asked to provide feedback about their Military OneSource experience, though on average only about 1–2% of respondents provide feedback.

Dated: December 27, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2013–31393 Filed 12–31–13; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2013–OS–0237]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Undersecretary of Defense for Personnel & Readiness, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Undersecretary of Defense for Personnel & Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by March 3, 2014.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Director, Military Community Outreach, Military Community and Family Policy, 4000 Defense Pentagon Room 2E355, Washington, DC 20301–2400, ATTN: Ms. Beth Riffle, or 703–695–3265.

**SUPPLEMENTARY INFORMATION:** *Title; Associated Form; and OMB Number:* Military OneSource Case Management System (CMS)—Intake; OMB Control Number 0704–XXXX.

*Needs and Uses:* The information collection requirement is necessary to support the Military OneSource Case Management System which will document an individual's eligibility; identification of the caller's inquiry or issue to provide a warm hand-off, referral and/or requested information; the development towards a final solution and referral information. Records may be used as a management tool for statistical analysis, tracking, reporting, and evaluating program effectiveness and conducting research. Information about individuals indicating a threat to self or others will be reported to the appropriate authorities in accordance with DoD/Military Branch of Service and Component regulations and established protocols.

*Affected Public:* Individuals or households; Federal Government.

*Annual Burden Hours:* 45,000.

*Number of Respondents:* 900,000.

*Responses per Respondent:* 1.

*Average Burden per Response:* 3 minutes.

*Frequency:* On occasion.

Respondents are military service members and their families accessing Military OneSource for support for an inquiry or issue. Military OneSource is a Department of Defense-funded program providing comprehensive information on every aspect of military life at no cost to active duty, National Guard and reserve service members and their families. Military OneSource call center and online support is available 24/7 from master's level consultants for practical information and referrals on issues such as handling a move or finding resources in your area. Respondents may access Military OneSource for support for issues such as:

- Specialty consultations with trained professionals on health and wellness, wounded warriors, financial issues, education, adoption, language translation and interpretation, and special needs.
- Non-medical counseling which addresses issues requiring short-term attention including everyday stressors, grief, deployment and reintegration concerns.
- Activities of daily living such as childhood issues, tax consultation, elder care, etc.

Dated: December 27, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2013–31388 Filed 12–31–13; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2013–OS–0229]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces a proposed public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by March 3, 2014.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Community and Family Policy) Office of Community Support for Military Families with Special Needs, ATTN: Isabel Hodge, 1525 Wilson Blvd., Suite 225, Arlington, Virginia 22209 or call at (703) 588–0879.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form, and OMB Control Number:* Exceptional Family Member Program, DD Form 2792, *Family Member Medical Summary,* and DD Form 2792–1, *Special Education/Early Intervention Summary.* OMB Control Number 0704–0411.

*Needs and Uses:* This information collection requirement is necessary to screen members of military families to determine if they have special medical (DD Form 2792) and/or educational (DD Form 2792–1) conditions so that these conditions can be taken into consideration when the Service member is being assigned to a new location with his/her family. The information is used by the personnel system to identify special considerations for future assignments. Local and state school and early intervention personnel complete DD Form 2792–1 for children requiring special educational services. The DD Form 2792 and DD Form 2792–1 are also used by TRICARE Managed Care Support Contractors to support a family member's application for further entitlements, and other Service-specific programs that require registration in the Exceptional Family Member Program. The DD Form 2792 and DD Form 2792–1 associated with this information collection, may be voluntarily submitted by a perspective civilian employee to the civilian personnel office to identify family members who have special needs in order to advise the civilian employee of the availability of services in the location where they will be potentially employed. The DD Form 2792–1 must be completed if the civilian employee intends to enroll his or her child in a school funded by the DoD.

*Affected Public:* Individuals or households; State and local education personnel.

*Annual Burden Hours:* 20,050.

*Number of Respondents:* 44,555.

*Responses per Respondent:* 1.

*Average Burden per Response:* .45 hours (27 minutes).

*Frequency:* Tri-annually.

The Military Departments of the Department of Defense screen all family members prior to a Service member being assigned to an overseas location and to some assignments in the United States. DD Form 2792, *Family Member Medical Summary,* and/or DD Form 2792–1, *Special Education/Early Intervention Summary,* will be completed for family members who have been identified with a special medical and/or educational need to document the medical and/or educational needs and service requirements. Their needs will be matched to the resources available at the overseas location to determine the feasibility of receiving appropriate services in that location. The information is used by the Military Service's personnel offices for purposes of assignment only and to advise the civilian employee of the availability of the needed services. The DD Form 2792 and DD Form 2792–1 are also used by TRICARE Managed Care Support Contractors to support a family member's application for further entitlements, and other Service-specific programs that require registration in the Exceptional Family Member Program.

Dated: December 27, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2013–31380 Filed 12–31–13; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Publication of Housing Price Inflation Adjustment Under United States Code

**AGENCY:** Office of the Under Secretary (Personnel and Readiness), DoD.

**ACTION:** Notice.

**SUMMARY:** The Servicemembers Civil Relief Act, as codified at 50 U.S.C. App. § 531, prohibits a landlord from evicting a Service member (or the Service member's family) from a residence during a period of military service except by court order. The law as originally passed by Congress applied to dwellings with monthly rents of $2400 or less. The law requires the Department of Defense to adjust this amount annually to reflect inflation, and to publish the new amount in the **Federal Register**. We have applied the inflation index required by the statute. The maximum monthly rental amount for 50 U.S.C. App. § 531(a)(1)(A)(ii) as of January 1, 2014, will be $3,217.81.

**DATES:** *Effective Date:* January 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Major Ryan Oakley, Office of the Under Secretary of Defense for Personnel and Readiness, (703) 697–3387.

Dated: December 27, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2013–31415 Filed 12–31–13; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2013–OS–0239]**

### Privacy Act of 1974; System of Records

**AGENCY:** Defense Finance and Accounting Service, DoD.

**ACTION:** Notice to add a new System of Records.

**SUMMARY:** The Defense Finance and Accounting Service proposes to add a new system of records, T7333a, entitled ''Centralized Travel History Records (CTHR)'' to its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will provide Air Force installations with the capability to accomplish an online inquiry to support travel claims, questions, and investigations; and provide voucher numbers in order to retrieve travel vouchers from on-site storage or the Federal Records Center.

**DATES:** This proposed action will be effective on February 3, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before February 3, 2014.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gregory Outlaw, (317) 510–4591.

**SUPPLEMENTARY INFORMATION:** The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office at *http://dpclo.defense.gov/privacy/SORNs/component/dfas/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 7, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 27, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**T7333a**

**SYSTEM NAME:**

Centralized Travel History Records (CTHR).

**SYSTEM LOCATION:**

Defense Information Systems Agency, Defense Enterprise Computing Center, Mechanicsburg, Bldg 308, Naval Support Activity (NSA), 5450 Carlisle Pike, Mechanicsburg, PA 17050–2411.

Defense Finance and Accounting Service, Limestone, 27 Arkansas Road, Limestone, ME 04751–1500.

Defense Finance and Accounting Service, Japan, Building 206 Unit 5220, APO AP 96328–5220.

Defense Finance and Accounting Service, Columbus, 3990 East Broad St, Columbus, OH 43213–1152.

Defense Finance and Accounting Service, Rome, 325 Brooks Road, Rome, NY 13441–4527.

Defense Finance and Accounting Service, Indianapolis, 8899 East 56TH Street, Indianapolis, IN 46249–0100.

Defense Finance and Accounting Service, Europe, Unit #23122, APO AE 09227.

Official mailing addresses for Air Force Bases are contained in the Directory of Department of the Air Force Mailing Addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

United States Air Force Active Duty, Reserve and National Guard members and DoD civilian employees that utilize the Defense Travel System.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's full name, rank/pay grade, Social Security Number (SSN), address, unit address, travel voucher number, travel order number, military branch of service or department, office address and telephone number and date of travel.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental regulations, Department of Defense Directive 5118.5, Defense Finance and Accounting Service; Department of Defense Financial Management Regulation (DoDFMR) 7000.14–R, Vol. 9, Defense Finance and Accounting Service-Denver (DFAS–DE) 7077.2–M, United States Air Force Standard Base Level General Accounting and Finance System User's Manual, 31 U.S.C. Money and Finance, Sections 3511, Prescribing accounting requirements and developing accounting systems and 3512, Executive agency accounting and other financial management reports and plans and 3513, Financial reporting and accounting system; and E.O. 9397 (SSN), as amended.

**PURPOSE(S):**

The records are used as a centrally maintained repository for travel history information. The system provides Air Force installations with the capability to accomplish an online inquiry to support travel claims, questions, and investigations and provide voucher numbers in order to retrieve travel vouchers from on-site storage or the Federal Records Centers.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses published at the beginning of the DFAS compilation of systems of records notices may apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic storage media.

**RETRIEVABILITY:**

Retrieved by name and/or SSN.

**SAFEGUARDS:**

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is limited to CAC enabled users and restricted by passwords, which are changed according to agency security policy.

**RETENTION AND DISPOSAL:**

Records are cut off at the end of the fiscal year in which payment was made and destroyed 6 years and 3 months after cutoff. Records are destroyed by degaussing.

**SYSTEM MANAGER(S) AND ADDRESS:**

Defense Finance and Accounting Service-Columbus, DFAS–HTSCA, CTHR System Manager, 3990 East Broad St., Columbus, OH 43218–1152.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager,

Corporate Communications, DFAS–ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249–0150.

Requests should contain individual's full name, SSN for verification, current address to reply, and provide a reasonable description of what they are seeking.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this record system should address written inquiries to Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications, DFAS–ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249–0150.

Request should contain individual's full name, SSN for verification, current address to reply, and telephone number.

**CONTESTING RECORD PROCEDURES:**

The Defense Finance and Accounting Service (DFAS) rules for accessing records, for contesting contents and appealing initial agency determinations are published in Defense Finance and Accounting Service Regulation 5400.11–R, 32 CFR 324; or may be obtained from the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications, DFAS–ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249–0150.

**RECORD SOURCE CATEGORIES:**

From the individual concerned or the United States Air Force.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 2013–31403 Filed 12–31–13; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2013–OS–0048]**

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice to delete two Systems of Records.

**SUMMARY:** The Department of the Army is deleting two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, as amended. The two systems being deleted are A0360–5 SAPA and AAFES 0502.02.

**DATES:** This proposed action will be effective on February 3, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before February 3, 2014.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leroy Jones, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–6185.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at *http://dpclo.defense.gov/privacy/SORNs/component/army/index.html.*

The Department of the Army proposes to delete two systems of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: December 27, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**Deletions:**

**A0360–5 SAPA**

Biography Files (September 11, 2001, 66 FR 47181)

**REASON:**

The program using this system of records notice has been discontinued and records are no longer collected and have met the approved NARA retention schedule; therefore, the system of records notice can be deleted.

**AAFES 0502.02**

Biographical Files (August 9, 1996, 61 FR 41581)

**REASON:**

The program using this system of records notice has been discontinued and records are no longer collected and have met the approved NARA retention schedule; therefore, the system of records notice can be deleted.

[FR Doc. 2013–31404 Filed 12–31–13; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Performance Review Board Membership

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** Pursuant to reference (a), the Department of Navy (DoN) announces the appointment of members to the DoN's Senior Executive Service (SES) Organizational Pay Pools (PPs) and the DoN Performance Review Board (PRB). The purpose of the PPs/PRB is to provide fair and impartial review of the annual SES performance appraisal prepared by the senior executive's immediate and second level supervisor; to make recommendations to appointing officials regarding acceptance or modification of the performance rating; and to make recommendations for performance bonuses. Composition of the specific PPs and PRB will be determined on an ad hoc basis from among the individuals listed in the Notice of Performance Review Board Membership below.

CAPT Anthony Ferrari
CAPT Robert Palisin
Dr. Frank Herr
Dr. John Burrow
Dr. John Montgomery
Dr. Judith Lean
Dr. Thomas Killion
Dr. Walter F. Jones
Honorable Mr. Juan Garcia
LtGen William Faulkner
Mr. Anthony Cifone
Mr. Brian Persons
Mr. Donald McCormack
Mr. Donald McCormack
Mr. Elliott Branch
Mr. Gary Kessler
Mr. Gary Newton
Mr. James McCarthy
Mr. James Thomsen

Mr. Jerome Punderson
Mr. John Goodhart
Mr. John Thackrah
Mr. John Zangardi
Mr. Mark Andress
Mr. Mark Honecker
Mr. Mark Ridley
Mr. Michael Kistler
Mr. Patrick Sullivan
Mr. Phillip Chudoba
Mr. Richard Gilpin
Mr. Robert Hogue
Mr. Roger Natsuhara
Mr. Scott Lutterloh
Mr. Scott O'Neil
Mr. Sean Stackley
Mr. Stephen Trautman
Mr. Steven Iselin
Mr. Thomas Ledvina
Mr. Victor Ackley
Ms. Allison Stiller
Ms. Andrea Brotherton
Ms. Anne Brennan
Ms. Anne Davis
Ms. Carmela Keeney
Ms. Diane Balderson
Ms. Lynn Wright
Ms. Sharon Smoot
Ms. Sheryl Murray
Ms. Steffanie Easter
Ms. Wendy Kay
RADM David Johnson
RADM James Foggo
RADM James Shannon
RADM Kevin Slates
RADM Richard Breckenridge
RADM Thomas Moore
RDML Lawrence Creevy
RDML Paul Sohl
VADM Paul Grosklags
VADM Terry Benedict

**FOR FURTHER INFORMATION CONTACT:** Ms. Bernadina Reyes, Office of Civilian Human Resources, telephone 703–693–0222.

Dated: December 5, 2013.

**N.A. Hagerty-Ford,**

*Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2013–31387 Filed 12–31–13; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC13–22–000]**

### Commission Information Collection Activities (Ferc–733); Comment Request

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Comment request.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC–733, Demand Response/Time-Based Rate Programs and Advanced Metering, 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 issued a Notice in the **Federal Register** (78 FR 63172, 10/23/2013) requesting public comments. FERC received no comments on the FERC–733 and is making this notation in its submittal to OMB.

**DATES:** Comments on the collection of information are due by February 3, 2014.

**ADDRESSES:** Comments filed with OMB, identified by the collection number FERC–733, 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 Federal Energy Regulatory Commission, identified by the Docket No. IC13–22–000, 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:**

*Title:* FERC–733, Demand Response/Time-Based Rate Programs and Advanced Metering.

*OMB Control No.:* To be determined.

*Type of Request:* Approval of a new survey of demand response and time-based rate programs and tariffs, and advanced metering that replaces the FERC–731 survey.

*Abstract:* Section 1252(e)(3) of the Energy Policy Act of 2005,[1] requires the Federal Energy Regulatory Commission to prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes. Specifically, EPAct 2005 Section 1252(e)(3) requires that the Commission identify and review:

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

In 2006 and 2008, the Commission designed and used Office of Management and Budget (OMB) approved collections FERC–727, *Demand Response and Time Based Rate Programs Survey* (OMB Control No. 1902–0214), and FERC–728, *Advanced Metering Survey* (OMB Control No. 1902–0213), to collect and convey to Congress the requested demand response and advanced metering information. In 2010 and 2012, the Commission designed and used OMB approved collection FERC–731, *Demand Response/Time-Based Rate Programs and Advanced Metering* (OMB Control No. 1902–0251).

For 2014 and 2016 the Commission proposes to continue to utilize a voluntary survey (FERC–733) that incorporates changes to the previously approved FERC–731 to improve data quality and reduce respondent burden. The Commission proposes to (1) align its collection of Advanced Metering

[1] Public Law 109–58, § 1252(e)(3), 119 Stat. 594, 966 (2005) (EPAct 2005).

Infrastructure (AMI) installations with that of the Energy Information Administration (EIA), (2) consolidate several questions, (3) eliminate some of the data collected on the FERC–731, (4) include three additional categories regarding customer's methods of accessing data, and (5) request additional details concerning retail demand response programs that participate in wholesale programs.[2]

The Commission proposes to revise the structure of its question on advanced meters to comport with recent changes approved by OMB for the EIA in Form EIA–861, Schedule 6, Part D, ''Advanced Metering and Customer Communication.'' The Commission also proposes to eliminate certain data elements requested by the 2012 FERC–731 including: The respondents' number of customers by customer sector in Question 3, and the request for the respondents' long-range (4 to 6 years) plans for demand response programs in Question 5.

The Commission believes that the above changes should result in a more accurate and streamlined data collection that will reduce respondent burden.

The Commission investigated alternatives, including using data from the North American Electric Reliability Corporation (NERC) and EIA, to fielding and collecting data using a FERC designed survey. However, as explained below, the data is not currently collected or cannot be obtained by the Commission in time to complete the 2014 report to Congress.

NERC, as the Electric Reliability Organization for the United States[3] as certified by the Commission, has begun to collect demand response data on dispatchable and non-dispatchable resources that it needs to conduct its reliability work. Reporting demand response information in the Demand Response Availability Data System (DADS) is mandatory for all entities who are part of NERC's functional model. The Demand Response Data Task Force at NERC developed DADS to collect demand response program information. DADS currently collects information on dispatchable and controllable demand response resources. DADS does not currently collect and report information on several key demand response program types including economic, and time-based rate programs. Because DADS does not currently collect and report data which is specifically required by EPAct 2005, the system cannot be relied upon for FERC's reporting purposes. EPAct 2005 specifically requires FERC to identify and review time-based rate programs.

NERC plans to require its registered entities to report information on these other demand response program types in the future, but it is unclear at this time when NERC may begin to collect these additional data or whether the new data will be available or suitable for FERC staff to use to prepare their reports to Congress.

The EIA collects aggregated information on energy efficiency and load management as well as advanced metering data in its EIA–861, ''*Annual Electric Power Industry Report.*'' The data collected in this survey does not identify specific demand response programs or time-based rate programs, but it does support the Commission's advanced metering data needs. Unfortunately, the finalized advanced metering data for 2013 will not be available until the fourth quarter of 2014 under EIA's proposed schedule. Therefore, the EIA data will not be available to the Commission in time to report 2013 findings in calendar year 2014.

Because these alternatives will not provide data or will not provide data in a timely manner for the 2014 report, the Commission proposes to conduct a survey (attached in the docket) with a response deadline of May 1, 2014. This survey has been designed to be consistent with the NERC's data collection such that, in future years, the Commission may be able to use the NERC data when it becomes available, phase-out the FERC demand response survey and still comply with EPAct 2005 Section 1252(e)(3).

FERC staff has designed a survey that will impose minimal burden on respondents by providing respondents with an easy-to-complete, fillable form that will include such user friendly features as pre-populated fields and drop-down menus, make use of the data that is becoming available from reliable sources, and provide it with the information necessary to draft and file the report that is required by Congress. The survey can be electronically filed. A paper version of the survey will be available for those who are unable to file electronically.

*Access to the Proposed Materials:* The survey form, instructions, and glossary are attached to this docket, but they are not being published in the **Federal Register**.[4] Interested parties can see the materials electronically as part of this notice in FERC's eLibrary (*http://www.ferc.gov/docs-filing/elibrary.asp*) by searching Docket No. IC13–22–000.

Interested parties may also request paper or electronic copies of any of the materials by contacting FERC's Public Reference Room by email at *public.referenceroom@ferc.gov* or by telephone at (202) 502–8371.

*Type of Respondents:* The Commission is proposing to collect the demand response and advanced metering information via a voluntary survey from the nation's entities that serve wholesale and retail customers. The information will be used to draft and file the report that is required by Congress. Industry cooperation is important for us to obtain as accurate and up-to-date information as possible to respond to Congress, as well as to provide information to states and other market participants. We, therefore, strongly encourage all potential survey respondents to complete the survey.

*Estimate of Annual Burden:*[5] The Commission estimates the total Public Reporting Burden for this information collection as:

[2] The additional details of the retail demand response programs that participate in wholesale demand response programs is necessary to identify the potential peak reductions that are solely wholesale in nature and not associated with specific demand response efforts at the retail program level.

[3] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *appeal docketed sub nom. Alcoa, Inc. v. FERC,* No. 06–1426 (D.C. Cir. Dec. 29, 2006).

[4] The attached form is for illustrative purposes only and does not include all the interactive features of the actual form.

[5] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

FERC–733—DEMAND RESPONSE/TIME-BASED RATE PROGRAMS AND ADVANCED METERING

| | Number of respondents (A) | Number of responses per respondent (B) | Total number of responses (A) × (B) = (C) | Average burden hours per response (D) | Estimated total burden [6] (C) × (D) |
|---|---|---|---|---|---|
| Entities that serve wholesale and retail customers ..... | 3,400 | 1 | 3,400 | 3.5 | 11,900 |

The total estimated cost burden to respondents for the 2014 survey is $669,613 (11,900 hours/year × $56.27/hour [7] = $669,613. The estimated cost per respondent for the survey is $196.95 (3.5 hours/survey × $56.27/hour = $196.95.

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 24, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31340 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

[6] This collection occurs every two years and OMB approval is typically for three years. As such, it is likely that there will be two surveys completed during the time this form is approved. When we submit this collection to OMB for approval (after the comment period) we will likely calculate the total burden for three years (two surveys) and average the total burden over those three years.

[7] This figure is based on the average salary plus benefits for a management analyst (NAICS Occupation Code 13–1111). We obtained wage and benefit information from the Bureau of Labor Statistics (*http://bls.gov/oes/current/naics2_22.htm* and *http://www.bls.gov/news.release/ecec.nr0.htm*).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 3030–019]**

### Antrim County; Notice of Application Accepted for Filing, Ready for Environmental Analysis, and Soliciting Motions To Intervene and Protests, Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent license.

b. *Project No.:* 3030–019.

c. *Date filed:* December 21, 2012.

d. *Applicant:* Antrim County.

e. *Name of Project:* Elk Rapids Hydroelectric Project.

f. *Location:* On the Elk River, in the village of Elk Rapids, the counties of Antrim, Grand Traverse, and Kalkaskia, Michigan. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Willam Stockhausen, Elk Rapids Hydroelectric Power, LLC, 218 West Dunlap Street, Northville, MI 48167 or at (248) 349–2833.

i. *FERC Contact:* Lee Emery, (202) 502–8379, *lee.emery@ferc.gov*.

j. Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–3030–019.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The Elk Rapids Project consists of: (1) Two impoundments, the 2,560-acre Skegemog Lake and the 7,730-acre Elk Lake; (2) a 121-foot-long, 52-foot-high, 26-foot-wide existing powerhouse that spans the main channel of the Elk River, with an operating head of 10.5 feet; (3) a 24-foot-high, single story superstructure; (4) a substructure that includes the intakes and turbine pits, which are about 13 feet high; (5) a 13-foot-high concrete foundation located below the substructure that incorporates the draft tubes; (6) four intake bays, each 22 feet wide with sliding head gates at the powerhouse wall; (7) two Francis turbines, each with an installed capacity of 350 kilowatts; (8) intake trash racks having a 1.75-inch clear bar spacing; (9) a 14-foot-wide overflow spillway located about 400 feet south of the powerhouse, which consists of two adjacent concrete drop structures, each with 7-foot-long stop logs to control the lake level, with each drop structure leading to a 62.5-foot-long by 4.5-foot-diameter culvert that passes under Dexter Street; (10) two turbine gates used to spill excess water through the two intake bays that do not contain turbines and generating units; (11) a 4,160-kilovolt (kV) transmission line that extends about 30 feet from the powerhouse to a 20-foot by 30-foot substation enclosure; (12) a 50-foot-long underground 12.5-kV transmission line to connect the project substation to the local utility distribution lines; and (13) other appurtenant facilities. The average annual generation is estimated to be 2,422 megawatt-hours (MWh).

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available

for inspection and reproduction at the address in item h above.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: December 26, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31400 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14537–001]**

### Antrim Treatment Trust; Notice of Application Tendered For Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* 14537–001.

c. *Date filed:* December 12, 2013.

d. *Applicant:* Antrim Treatment Trust.

e. *Name of Project:* Antrim Micro-Hydropower Project.

f. *Location:* The project would utilize diverted water from an existing pond that collects acidic mine discharge from abandoned mines located in Duncan Township, Tioga County, Pennsylvania. The project would be located on lands owned by the applicant and would not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Margaret H. Dunn, Biomost, Inc., 434 Spring Street Ext., Mars, PA 16046. Phone: (724) 776–0161.

i. *FERC Contact:* Monir Chowdhury, (202) 502–6736 or *monir.chowdhury@ferc.gov*.

j. Cooperating agencies: Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* February 10, 2014.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14537–001.

m. The application is not ready for environmental analysis at this time.

n. The Antrim Micro-Hydropower Project would consist of the following existing features: (1) A 0.25-acre-foot collection pond; (2) a 12-inch-diameter, 435-foot-long polyvinyl chloride (PVC) pipe that conveys raw water from the collection pond to a 60-foot-diameter concrete clarifier with a capacity of 33,500 cubic feet in a treatment plant,[1] (3) a 12-inch-diameter, 143-foot-long high-density polyethylene (HDPE) pipe to convey treated water from the treatment plant to a forebay; (4) a 12-inch-diameter, 155-foot-long HDPE pipe connected to the 12-inch-diameter PVC pipe to bypass raw water to the forebay during high flow conditions or plant maintenance; (5) a forebay with a net storage capacity of 6,000 cubic feet; (6) an 18-inch-diameter, 972-foot-long penstock from the forebay to the powerhouse; (7) a powerhouse with two identical impulse turbine-generator units with a combined rated capacity of 40 kilowatts; (8) a 75-foot-long tailrace to convey flows from the powerhouse to an unnamed tributary to Bridge Run; (9) a 1,300-foot-long, 460-volt buried transmission line; and (10) appurtenant facilities. The project is estimated to generate an average of 250 megawatt-hours annually.

The applicant currently operates one turbine as an off-grid project, and proposes to bring the other turbine (currently in place but non-operational) online by additional indoor wiring within the existing powerhouse and the

[1] There are various other facilities in the treatment plant, but they are not necessary for the hydropower purposes.

treatment plant, and operate both turbines as a grid-connected project.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Pennsylvania State Historic Preservation Officer (SHPO), as required by section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate (e.g., if scoping is waived, the schedule would be shortened).

| | |
|---|---|
| Issue Notice of Acceptance | March 2014. |
| Issue Scoping Document ..... | April 2014. |
| Issue Notice of Ready for Environmental Analysis. | May 2014. |
| Commission issues EA ..... | October 2014. |

Dated: December 24, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31339 Filed 12–31–13; 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:* ER14–736–000.
*Applicants:* Saranac Power Partners, L.P.
*Description:* Saranac Power Partners, L.P. submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5057.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–737–000.
*Applicants:* Vulcan/BN Geothermal Power Company.
*Description:* Vulcan/BN Geothermal Power Company submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5067.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–738–000.
*Applicants:* Yuma Cogeneration Associates.
*Description:* Yuma Cogeneration Associates submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5070.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–739–000.
*Applicants:* AV Solar Ranch 1, LLC.
*Description:* AV Solar Ranch 1, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5079.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–740–000.
*Applicants:* Agua Caliente Solar, LLC.
*Description:* Agua Caliente Solar, LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5081.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–741–000.
*Applicants:* Cassia Gulch Wind Park, LLC.
*Description:* Cassia Gulch Wind Park, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5082.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–742–000.
*Applicants:* CER Generation, LLC.
*Description:* CER Generation, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5083.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–743–000.
*Applicants:* Bishop Hill Energy II LLC.
*Description:* Bishop Hill Energy II LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5088.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–744–000.
*Applicants:* CER Generation II, LLC.
*Description:* CER Generation II, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5089.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–745–000.
*Applicants:* Cordova Energy Company LLC.
*Description:* Cordova Energy Company LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5090.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–746–000.
*Applicants:* Commonwealth Edison Company.
*Description:* Commonwealth Edison Company submits Order No. 784 Compliance Filing and Cancellation of Form of Service Agreement to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5091.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–747–000.
*Applicants:* Pinyon Pines Wind I, LLC.
*Description:* Pinyon Pines Wind I, LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5092.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–748–000.
*Applicants:* Pinyon Pines Wind II, LLC.
*Description:* Pinyon Pines Wind II, LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5093.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–749–000.
*Applicants:* Constellation Mystic Power, LLC.
*Description:* Constellation Mystic Power, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5096.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–750–000.
*Applicants:* Constellation NewEnergy, Inc.
*Description:* Constellation NewEnergy, Inc. submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5097.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–751–000.
*Applicants:* Solar Star California XIX, LLC.
*Description:* Solar Star California XIX, LLC submits Amendment to Market

Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5098.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–752–000.
*Applicants:* Cow Branch Wind Power, LLC.
*Description:* Cow Branch Wind Power, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5099.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–753–000.
*Applicants:* Solar Star California XX, LLC.
*Description:* Solar Star California XX, LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5100.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–754–000.
*Applicants:* CR Clearing, LLC.
*Description:* CR Clearing, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5101.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–755–000.
*Applicants:* Topaz Solar Farms LLC.
*Description:* Topaz Solar Farms LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5102.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–756–000.
*Applicants:* Exelon Framingham, LLC.
*Description:* Exelon Framingham, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5103.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–757–000.
*Applicants:* Exelon New Boston, LLC.
*Description:* Exelon New Boston, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5104.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–758–000.
*Applicants:* Exelon Generation Company, LLC.
*Description:* Exelon Generation Company, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5105.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–759–000.
*Applicants:* Exelon West Medway, LLC.
*Description:* Exelon West Medway, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5106.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–760–000.
*Applicants:* Exelon Wind 4, LLC.
*Description:* Exelon Wind 4, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5107.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–761–000.
*Applicants:* Exelon Wyman, LLC.
*Description:* Exelon Wyman, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5108.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–762–000.
*Applicants:* Handsome Lake Energy, LLC.
*Description:* Handsome Lake Energy, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5109.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–763–000.
*Applicants:* Harvest Windfarm, LLC.
*Description:* Harvest Windfarm, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5111.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–764–000.
*Applicants:* High Mesa Energy, LLC.
*Description:* High Mesa Energy, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5118.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–765–000.
*Applicants:* Nine Mile Point Nuclear Station, LLC.
*Description:* Nine Mile Point Nuclear Station, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5121.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–766–000.
*Applicants:* Public Service Company of Colorado.
*Description:* Public Service Company of Colorado submits 2013–12–20 SPP IM Joint OATT Filing to be effective 3/1/2014.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5122.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–767–000.
*Applicants:* PECO Energy Company.
*Description:* PECO Energy Company submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5123.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–768–000.
*Applicants:* R.E. Ginna Nuclear Power Plant, LLC.
*Description:* R.E. Ginna Nuclear Power Plant, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5125.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–769–000.
*Applicants:* Tuana Springs Energy, LLC.
*Description:* Tuana Springs Energy, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5130.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–770–000.
*Applicants:* Wind Capital Holdings, LLC.
*Description:* Wind Capital Holdings, LLC submits Order No. 784 Compliance Filing to be effective 12/21/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5132.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–771–000.
*Applicants:* Power Resources, Ltd.
*Description:* Power Resources, Ltd. submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5137.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–772–000.
*Applicants:* Fortistar North Tonawanda Inc.
*Description:* Fortistar North Tonawanda Inc. submits FERC Electric Tariff No. 1—Fortistar North Tonawanda Inc to be effective 12/20/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5167.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–773–000.
*Applicants:* Alabama Power Company.
*Description:* Alabama Power Company submits Attachment C Amendment Filing to be effective 12/19/2013.
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5182.

*Comments Due:* 5 p.m. ET 1/10/14.

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 85.214) 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: December 20, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–31383 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

December 24, 2013.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER14–824–000.

*Applicants:* National Grid-Glenwood Energy Center, LLC.

*Description:* National Grid Glenwood Energy Ctr MBR Tariff Revisions Pursuant to Order 784 to be effective 2/23/2014.

*Filed Date:* 12/24/13.

*Accession Number:* 20131224–5023.

*Comments Due:* 5 p.m. ET 1/14/14.

*Docket Numbers:* ER14–825–000.

*Applicants:* National Grid-Port Jefferson Energy Center, LLC.

*Description:* National Grid Port Jefferson MBR Tariff Revisions Pursuant to Order 784 to be effective 2/23/2014.

*Filed Date:* 12/24/13.

*Accession Number:* 20131224–5024.

*Comments Due:* 5 p.m. ET 1/14/14.

*Docket Numbers:* ER14–826–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Notice of Cancellation of Original Service Agreement No. 3184; Queue No. W3–032 to be effective 12/24/2013.

*Filed Date:* 12/24/13.

*Accession Number:* 20131224–5038.

*Comments Due:* 5 p.m. ET 1/14/14.

*Docket Numbers:* ER14–827–000.

*Applicants:* Golden Spread Electric Cooperative, Inc.

*Description: Golden Spread Electric Cooperative, Inc. submits response to Order No. 784 regarding compliance requirements.*

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5272.

*Comments Due:* 5 p.m. ET 1/13/14.

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.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–31399 Filed 12–31–13; 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 exempt wholesale generator filings:

*Docket Numbers:* EG14–22–000.

*Applicants:* Macho Springs Solar, LLC.

*Description: Notice of Self-Certification of Exempt Wholesale Generator Status.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5359.

*Comments Due:* 5 p.m. ET 1/10/14.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers: ER04–835–000, EL04–103–000.*

*Applicants:* California Independent System Operator Corporation, Pacific Gas and Electric Company.

*Description: Informational Refund Report of California Independent System Operator Corporation.*

Filed Date: 12/20/13.

*Accession Number:* 20131220–5425.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers: ER10–1801–002; ER10–1808–003; ER10–1805–003; ER10–2370–001; ER10–1811–002.*

*Applicants:* The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, NSTAR Electric Company, Select Energy, Inc.

*Description: Triennial Market Analysis Update of the NU MBR Companies and Select Energy, Inc.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5414.

*Comments Due:* 5 p.m. ET 2/18/14.

*Docket Numbers: ER10–2822–005; ER11–2462–004; ER11–2463–004; ER11–2464–004; ER11–2465–004; ER10–2994–009; ER11–2466–004; ER11–2467–004; ER11–2468–004; ER11–2469–004; ER11–2470–004; ER11–2471–004; ER11–2472–004; ER11–2473–004; ER11–2196–005; ER11–2474–006; ER11–2475–004.*

*Applicants:* Iberdrola Renewables, LLC, Atlantic Renewable Projects II LLC, Big Horn Wind Project LLC, Big Horn II Wind Project LLC, Colorado Green Holdings LLC, Hay Canyon Wind LLC, Juniper Canyon Wind Power LLC, Klamath Energy LLC, Klamath Generation LLC, Klondike Wind Power LLC, Klondike Wind Power II LLC, Klondike Wind Power III LLC, Leaning Juniper Wind Power II LLC, Pebble Springs Wind LLC, San Luis Solar LLC, Star Point Wind Project LLC, Twin Buttes Wind LLC.

*Description: Updated Market Power Analysis for the Northwest Region of the Iberdrola MBR Sellers.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5417.

*Comments Due:* 5 p.m. ET 2/18/14.

*Docket Numbers: ER10–2997–003; ER10–3003–003; ER10–3018–003; ER10–3015–003; ER10–3016–003; ER10–2992–003; ER10–3030–003; ER10–2990–003.*

*Applicants:* Atlantic City Electric Company, Bethlehem Renewable Energy, LLC, Delmarva Power & Light Company, Eastern Landfill Gas, LLC, Fauquier Landfill Gas, LLC, Pepco Energy Services, Inc., Potomac Electric Power Company, Potomac Power Resources, LLC.

*Description: Triennial Market-Based Rate Update Filing for the Northeast Region of the PHI Entities.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5427.

*Comments Due:* 5 p.m. ET 2/18/14.

*Docket Numbers: ER11–47–003; ER11–46–006; ER10–2975–006; ER10–*

*2981–003; ER11–41–003; ER12–2343–001; ER13–1896–003.*

*Applicants:* Appalachian Power Company, AEP Energy Partners, Inc., CSW Energy Services, Inc., AEP Texas Central Company, AEP Retail Energy Partners, AEP Energy, Inc. AEP Generation Resources Inc.

*Description: Triennial Market Analysis Update of the AEP MBR affiliates located in PJM balancing area authority.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5413.

*Comments Due:* 5 p.m. ET 2/18/14.

*Docket Numbers: ER12–952–002; ER13–1141–001; ER13–1142–001; ER13–1143–002; ER13–1144–002; ER10–2196–001.*

*Applicants:* Essential Power, LLC, Essential Power Massachusetts, LLC, Essential Power Newington, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P.

*Description: Triennial Market-Based Rate Update Filing for the Northeast Region of the EP Entities.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5428.

*Comments Due:* 5 p.m. ET 2/18/14.

*Docket Numbers: ER13–738–002; ER11–3097–006; ER10–1212–005; ER10–1186–005; ER10–1277–005; ER10–1211–005; ER10–1188–005.*

*Applicants:* DTE Electric Company, DTE Energy Trading, Inc., DTE River Rouge No. 1, L.L.C., DTE Energy Supply, Inc., DTE East China, LLC, DTE Pontiac North, LLC, DTE Stoneman, LLC.

*Description: Notice of Change in Status of the DTE MBR Entities.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5412.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER13–1872–002.

*Applicants:* Southwest Power Pool, Inc.

*Description: Southwest Power Pool, Inc. submits 2562 KMEA NITSA NOA—Compliance Filing to be effective 6/1/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5320.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER13–2484–001.

*Applicants:* California Independent System Operator Corporation.

*Description: California Independent System Operator Corporation submits 2013–12–20_IPE–GIP_Compliance to be effective 12/3/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5333.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–70–001.

*Applicants:* Tampa Electric Company.

*Description: Tampa Electric Company submits Second Revised Rate Schedule No. 83 Trilateral Agreement w_SEC and HPP to be effective 12/20/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5303.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–460–001.

*Applicants:* Appalachian Power Company.

*Description: Appalachian Power Company submits 20131220 TCC Att K Update to be effective 1/24/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5265.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–786–000.

*Applicants:* Ameren Illinois Company.

*Description: Ameren Illinois Company submits Sectionalizing Switch Replacement LA with IMEA and RECC to be effective 11/21/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5330.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–787–000.

*Applicants:* Macho Springs Solar, LLC.

*Description: Macho Springs Solar, LLC submits Application for Initial Market-Based Rate Tariff and Granting Certain Waivers to be effective 1/1/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5334.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–788–000.

*Applicants:* Southwest Power Pool, Inc.

*Description: Southwest Power Pool, Inc. submits 2631 Kansas Municipal Energy Agency NITSA NOA to be effective 11/2/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5336.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–789–000.

*Applicants:* Lake Benton Power Partners LLC.

*Description: Lake Benton Power Partners LLC submits Lake Benton Amendment 3 Filing to be effective 2/19/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5338.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–790–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description: Midcontinent Independent System Operator, Inc. submits 12–20–13 Manitoba Hydro JOA Name Change to be effective 2/18/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5350.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–791–000.

*Applicants:* Southwest Power Pool, Inc.

*Description: Southwest Power Pool, Inc. submits 1534R4 Kansas Municipal Energy Agency NITSA NOA to be effective 12/1/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5362.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–792–000.

*Applicants:* NorthWestern Corporation.

*Description: NorthWestern Corporation submits SA 697—NITSA with City of Great Falls to be effective 3/1/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5363.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–793–000.

*Applicants:* The Empire District Electric Company.

*Description: The Empire District Electric Company submits Revised MBR Tariff to be effective 12/31/9998.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5364.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–794–000.

*Applicants:* Southwest Power Pool, Inc.

*Description: Southwest Power Pool, Inc. submits Termination of Rate Schedule 12 Seams Agreement with Entergy Services, Inc. to be effective 12/19/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5369.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–795–000.

*Applicants:* Tyr Energy LLC.

*Description: Tyr Energy LLC submits Amendment to MBR—Order 784 to be effective 12/21/2013.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5370.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–796–000.

*Applicants:* Black Hills Power, Inc.

*Description: Black Hills Power, Inc. submits Order No. 784 Compliance Filing to be effective 2/18/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5371.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–797–000.

*Applicants:* Black Hills/Colorado Electric Utility Company, LP.

*Description: Black Hills/Colorado Electric Utility Company, LP submits Order No. 784 Compliance Filing to be effective 2/18/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5372.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–798–000.

*Applicants:* Cheyenne Light, Fuel and Power Company.

*Description: Cheyenne Light, Fuel and Power Company submits Order No. 784 Compliance Filing to be effective 2/18/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5373.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–799–000.

*Applicants:* Pacific Gas and Electric Company.

*Description: Pacific Gas and Electric Company submits Transmission Access Charge Balancing Account Adjustment (TACBAA) 2014 to be effective 3/1/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5379.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–800–000.

*Applicants:* Pacific Gas and Electric Company.

*Description: Pacific Gas and Electric Company submits Certificate of Concurrence re WECC Unscheduled Flow Mitigation Plan in ER14–778 to be effective 1/1/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5381.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–801–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description: Midcontinent Independent System Operator, Inc. submits 12–20–2013 GVTC Filing_ER14–__–000 to be effective 2/21/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5388.

*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–802–000.

*Applicants:* Valley Electric Association, Inc.

*Description: Valley Electric Association, Inc. submits Annual TRBAA Update to be effective 1/1/2014.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5391.

*Comments Due:* 5 p.m. ET 1/10/14.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR13–10–001.

*Applicants:* North American Electric Reliability Corporation.

*Description: Compliance filing of North American Electric Reliability Corporation regarding its Delegation Agreement with the Western Electricity Coordinating Council.*

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5407.

*Comments Due:* 5 p.m. ET 1/10/14.

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: December 23, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–31385 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2727–003; ER10–2729–005; ER10–1469–003; ER13–785–002; ER10–1453–003; ER13–713–002; ER10–1459–007; ER10–2728–005; ER10–1467–003; ER10–1478–005; ER10–1473–003; ER10–1451–003; ER10–1474–003; ER10–2687–003; ER10–2688–006; ER10–1468–003; ER10–2689–006.

*Applicants:* Allegheny Energy Supply Company, LLC, Buchanan Generation, LLC, The Cleveland Electric Illuminating Company, FirstEnergy Generation, LLC, FirstEnergy Generation Mansfield Unit 1 Corp., FirstEnergy Nuclear Generation, LLC, FirstEnergy Solutions Corp., Green Valley Hydro, LLC, Ohio Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, Jersey Central Power & Light, Metropolitan Edison Company, Monongahela Power Company, The Potomac Edison Company, The Toledo Edison Company, West Penn Power Company.

*Description:* Triennial Market Power Update Analysis of the FirstEnergy Companies affiliates located within PJM footprint and specified submarkets authority.

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5430.

*Comments Due:* 5 p.m. ET 2/18/14.

*Docket Numbers:* ER14–459–001.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, L.L.C. submits Amendment to Notice of Cancellation of First Rev. SA No. 3396; Queue No. V4–009 to be effective 11/25/2013.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5197.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–709–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, L.L.C. submits Errata to Original Service Agreement No. 3674; Queue No. V4–023 to be effective N/A.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5000.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–803–000.

*Applicants:* NorthWestern Corporation.

*Description:* NorthWestern Corporation submits Second Revised Rate Sch FERC No 242—WECC Unscheduled Flow Mitigation Plan to be effective 12/31/9998.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5001.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–804–000.

*Applicants:* Westar Energy, Inc.

*Description:* Westar Energy, Inc. submits Revisions to Kansas Electric Power Cooperative, Inc. to be effective 3/1/2014.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5002.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–805–000.

*Applicants:* Westar Energy, Inc.

*Description:* Westar Energy, Inc. submits Revisions, Full Requirement Electric Service Agreements to be effective 8/31/2010.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5003.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–806–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc. submits 1876R2 KEPCO NITSA NOA to be effective 12/1/2013.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5113.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–807–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc. submits 2028R5 Sunflower Electric Power Corporation NITSA and NOA to be effective 12/1/2013.

*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5118.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–808–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Southwest Power Pool, Inc. submits 2415R2 Kansas Municipal Energy Agency NITSA and NOA to be effective 12/1/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5128.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–809–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* PJM Interconnection, L.L.C. submits Queue Position V4–023; Original Service Agreement No. 3675 to be effective 11/21/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5131.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–810–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* PJM Interconnection, L.L.C. submits Order No. 784 compliance filing revising the PJM OATT Schedule 3 to be effective 2/24/2014.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5132.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–811–000.
*Applicants:* Bangor Hydro Electric Company.
*Description:* Bangor Hydro Electric Company submits Filing in Compliance with Order No. 764 to be effective 1/1/2014.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5145.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–812–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Southwest Power Pool, Inc. submits 2463R1 KEPCO NITSA NOA to be effective 12/1/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5150.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–813–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Southwest Power Pool, Inc. submits 2639 Sunflower Electric Power Corporation NITSA NOA to be effective 12/1/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5156.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–814–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Southwest Power Pool, Inc. submits 2640 Sunflower Electric Power Corporation NITSA NOA to be effective 12/1/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5173.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–815–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Southwest Power Pool, Inc. submits 2641 Sunflower Electric Power Corporation NITSA NOA to be effective 12/1/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5176.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–816–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* PJM Interconnection, L.L.C. submits Queue Position V4–025; Original Service Agreement No. 3676 to be effective 11/21/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5178.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–817–000.
*Applicants:* New York Independent System Operator, Inc.
*Description:* New York Independent System Operator, Inc. submits NYISO tariff revision re: Incremental TCCs to be effective 2/21/2014.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5186.
*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–818–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* PJM Interconnection, L.L.C. submits Queue Position V4–025; Original Service Agreement No. 3677 to be effective 11/21/2013.
*Filed Date:* 12/23/13.
*Accession Number:* 20131223–5191.
*Comments Due:* 5 p.m. ET 1/13/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: December 23, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–31381 Filed 12–31–13; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #3

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER13–94–003.
*Applicants:* Avista Corporation.
*Description:* Avista Corp OATT Order 1000 Compliance Filing ER13–94–000 to be effective 2/17/2014.
*Filed Date:* 12/17/13.
*Accession Number:* 20131217–5190.
*Comments Due:* 5 p.m. ET 1/16/14.

*Docket Numbers:* ER14–774–000.
*Applicants:* Southern California Edison Company.
*Description: Southern California Edison Company submits LGIA with El Segundo Center II LLC to be effective 2/19/2014.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5184.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–775–000.
*Applicants:* Alabama Power Company.
*Description: Alabama Power Company submits Order No. 784 Compliance Filing to be effective 12/20/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5186.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–776–000.
*Applicants:* Ohio Valley Electric Corporation.
*Description: Ohio Valley Electric Corporation submits Order Nos. 764, 764–A and 764–B Compliance Filing to be effective 11/12/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5187.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–777–000.
*Applicants:* PacifiCorp.
*Description: PacifiCorp submits Change in Status—NV Energy Merger to be effective 12/20/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5208.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–778–000.
*Applicants:* PacifiCorp.
*Description: PacifiCorp submits WECC Unscheduled Flow Mitigation Plan to be effective 1/1/2014.*

*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5221.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–779–000.
*Applicants:* BP Energy Company.
*Description: BP Energy Company submits Revised MBR Tariff—Order No. 784 Compliance Filing to be effective 12/20/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5238.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–780–000.
*Applicants:* Southern California Edison Company.
*Description: Southern California Edison Company submits Amended and Restated Firm Transmission Service Agmt between SCE and MSR to be effective 1/1/2014.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5276.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–781–000.
*Applicants:* Southwest Power Pool, Inc.
*Description: Southwest Power Pool, Inc. submits Generation Interconnection Process Improvement to be effective 3/1/2014.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5295.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–782–000.
*Applicants:* Tampa Electric Company.
*Description: Tampa Electric Company submits Rate Schedule No. 37 Amendment to Attachment A to be effective 12/20/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5305.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–783–000.
*Applicants:* Southern California Edison Company.
*Description: Southern California Edison Company submits Amendments to Service Agmts for Wholesale Distribution Service for EKWRA Project to be effective 12/15/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5306.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–784–000.
*Applicants:* Select Energy, Inc.
*Description: Select Energy, Inc submits Filing to Effect Cancellation of Existing eTariff Database—effective 2/20/14 to be effective 2/19/2014.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5315.
*Comments Due:* 5 p.m. ET 1/10/14.

*Docket Numbers:* ER14–785–000.
*Applicants:* Wisconsin Electric Power Company.
*Description: Wisconsin Electric Power Company submits ComEd Metering Construction and Maintenance Agreement—FERC Rate Schedule 133 to be effective 2/20/2014.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5316.
*Comments Due:* 5 p.m. ET 1/10/14.

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: December 20, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–31384 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC14–38–000.
*Applicants:* Minonk Wind, LLC, Sandy Ridge Wind, LLC, Algonquin Power Fund (America) Inc., Algonquin Power Fund (America) Holdco Inc., Gamesa Wind US, LLC.
*Description: Application for Authorization of Disposition of Facilities under Section 203 of the Federal Power Act and Requests for Confidential Treatment, Expedited Consideration and Waivers of Minonk Wind, LLC, et al.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5237.
*Comments Due:* 5 p.m. ET 1/9/14.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers: ER10–1790–010; ER11–2029–003.*
*Applicants:* BP Energy Company, Cedar Creek II, LLC.
*Description: Updated Market Power Analysis for Northwest Region of BP Energy Company and Cedar Creek II, LLC.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5181.
*Comments Due:* 5 p.m. ET 2/18/14.

*Docket Numbers:* ER13–630–000.
*Applicants:* Arizona Public Service Company.
*Description: Arizona Public Service Company submits Exhibit U to the supplement to the pending updated Market Power Analysis.*
*Filed Date:* 12/18/13.
*Accession Number:* 20131219–0012.
*Comments Due:* 5 p.m. ET 1/8/14.

*Docket Numbers:* ER14–714–000.
*Applicants:* Essential Power Rock Springs, LLC.
*Description: Essential Power Rock Springs, LLC submits Notice of Succession to be effective 2/26/2013.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5141.
*Comments Due:* 5 p.m. ET 1/9/14.

*Docket Numbers:* ER14–715–000.
*Applicants:* Essential Power OPP, LLC.
*Description: Essential Power OPP, LLC submits Notice of Succession to be effective 2/26/2013.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5149.
*Comments Due:* 5 p.m. ET 1/9/14.

*Docket Numbers:* ER14–716–000.
*Applicants:* Cleco Power LLC.
*Description: Cleco Power LLC submits Notice of Cancellation of Cleco Power LLC OATT to be effective 12/19/2013.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5168.
*Comments Due:* 5 p.m. ET 1/9/14.

*Docket Numbers:* ER14–717–000.
*Applicants:* NorthWestern Corporation.
*Description: NorthWestern Corporation submits OATT Order No. 784 Compliance Filing (Montana) to be effective 2/17/2014.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5169.
*Comments Due:* 5 p.m. ET 1/9/14.

*Docket Numbers:* ER14–718–000.
*Applicants:* Attala Transmission LLC.
*Description: Attala Transmission LLC submits Notice of Cancellation of Attala Transmission LLC OATT to be effective 12/19/2013.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5173.
*Comments Due:* 5 p.m. ET 1/9/14.

*Docket Numbers:* ER14–719–000.
*Applicants:* Perryville Energy Partners L.L.C.
*Description: Perryville Energy Partners L.L.C. submits Notice of*

*Cancellation of Perryville Energy Partners, L.L.C. OATT to be effective 12/19/2013.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5189.
*Comments Due:* 5 p.m. ET 1/9/14.
*Docket Numbers:* ER14–720–000.
*Applicants:* California Independent System Operator Corporation.
*Description: California Independent System Operator Corporation submits 2013–12–19_Order676G_Compliance to be effective 2/18/2014.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5190.
*Comments Due:* 5 p.m. ET 1/9/14.
*Docket Numbers:* ER14–721–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description: Midcontinent Independent System Operator, Inc. submits 12–19–13 Clean-Up Filing to be effective 12/20/2013.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5216.
*Comments Due:* 5 p.m. ET 1/9/14.
*Docket Numbers:* ER14–722–000.
*Applicants:* Utility Expense Reduction, LLC.
*Description: Utility Expense Reduction, LLC submits Utility Expense Reduction, LLC Market-Based Rate Tariff to be effective 2/3/2014.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5217.
*Comments Due:* 5 p.m. ET 1/9/14.
*Docket Numbers:* ER14–723–000.
*Applicants:* Tampa Electric Company.
*Description: Tampa Electric Company submits Cancellation of Sixth Revised Rate Schedule No. 49—Auburndale to be effective 1/1/2014.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5218.
*Comments Due:* 5 p.m. ET 1/9/14.
*Docket Numbers:* ER14–724–000.
*Applicants:* Westar Energy, Inc.
*Description: Westar Energy, Inc. submits Market-Based Rate Tariff Revision to be effective 3/1/2014.*
*Filed Date:* 12/19/13.
*Accession Number:* 20131219–5225.
*Comments Due:* 5 p.m. ET 1/9/14.
*Docket Numbers:* ER14–725–000.
*Applicants:* MidAmerican Energy Company.
*Description: MidAmerican Energy Company submits tariff filing per 35.13(a)(2)(iii: Market-Based Rate Tariff—2nd Revised to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5030.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–726–000.
*Applicants:* NorthWestern Corporation.
*Description: NorthWestern Corporation submits OATT Order No. 784 Compliance Filing (South Dakota) to be effective 2/18/2014.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5032.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–727–000.
*Applicants:* ISO New England Inc., New England Power Pool Participants Committee.
*Description: ISO New England Inc. submits Demand Response Baseline Changes to be effective 6/1/2014.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5039.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–728–000.
*Applicants:* CalEnergy, LLC.
*Description: CalEnergy, LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5045.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–729–000.
*Applicants:* Louisville Gas and Electric Company.
*Description: Louisville Gas and Electric Company submits OATT Schedule 3 Order 784 Compliance Filing to be effective 12/27/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5046.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–730–000.
*Applicants:* CE Leathers Company.
*Description: CE Leathers Company submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5047.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–731–000.
*Applicants:* Del Ranch Company.
*Description: Del Ranch Company submits tariff filing per 35: Amendment to Market Based Rate Tariff to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5048.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–732–000.
*Applicants:* Elmore Company.
*Description: Elmore Company submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5049.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–733–000.
*Applicants:* Fish Lake Power LLC.
*Description: Fish Lake Power LLC submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5050.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–734–000.
*Applicants:* Salton Sea Power L.L.C.
*Description: Salton Sea Power L.L.C. submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5051.
*Comments Due:* 5 p.m. ET 1/10/14.
*Docket Numbers:* ER14–735–000.
*Applicants:* Salton Sea Power Generation Company.
*Description: Salton Sea Power Generation Company submits Amendment to Market Based Rate Tariff to be effective 12/19/2013.*
*Filed Date:* 12/20/13.
*Accession Number:* 20131220–5052.
*Comments Due:* 5 p.m. ET 1/10/14.

Take notice that the Commission received the following land acquisition reports:

*Docket Numbers:* LA13–3–000.
*Applicants:* Ashtabula Wind, LLC, Ashtabula Wind II, LLC, Ashtabula Wind III, LLC, Backbone Mountain Windpower LLC, Badger Windpower, LLC, Baldwin Wind, LLC, Bayswater Peaking Facility, LLC, Blackwell Wind, LLC, Butler Ridge Wind Energy Center, LLC, Cimarron Wind Energy, LLC, Crystal Lake Wind, LLC, Crystal Lake Wind II, LLC, Crystal Lake Wind III, LLC, Day County Wind, LLC, Diablo Winds, LLC, Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, Elk City Wind, LLC, Elk City II Wind, LLC, Ensign Wind, LLC, ESI Vansycle Partners, L.P., Florida Power & Light Co., FPL Energy Burleigh County Wind, LLC, FPL Energy Cabazon Wind, LLC, FPL Energy Cape, LLC, FPL Energy Cowboy Wind, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Hancock County Wind, LLC, FPL Energy Illinois Wind, LLC, FPL, Energy Maine Hydro LLC, FPL Energy Marcus Hook, L.P., FPL Energy MH50 L.P., FPL Energy Montezuma Wind, LLC, FPL Energy Mower County, LLC, FPL Energy New Mexico Wind, LLC, FPL Energy North Dakota Wind, LLC, FPL Energy North Dakota Wind II, LLC, FPL Energy Oklahoma Wind, LLC, FPL Energy Oliver Wind I, LLC, FPL Energy Oliver Wind II, LLC, FPL Energy Sooner Wind, LLC, FPL Energy South Dakota Wind, LLC, FPL Energy Stateline II, Inc., FPL Energy Vansycle, LLC, FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyoming, LLC, Garden Wind, LLC, Gray County Wind Energy, LLC, Hatch Solar Energy Center I, lLC, Hawkeye Power Partners, LLC, High Majestic Wind Energy Center, LLC, High Winds, LLC, High Majestic Wind II, LLC, Jamaica Bay Peaking Facility, LLC, Lake Benton Power Partners II,

LLC, Langdon Wind, LLC, Limon Wind, LLC, Limon Wind II, LLC, Logan Wind Energy LLC, Meyersdale Windpower LLC, Mill Run Windpower, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco Wind Interconnection Services, LLC, Mountain View Solar, LLC, NEPM II, LLC, NextEra Energy Duane Arnold, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Power Marketing, LLC, NextEra Energy Point Beach, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, North Jersey Energy Associates, A Limited Partnership, North Sky River Energy, LLC, Northern Colorado Wind Energy, LLC, Osceola Windpower, LLC, Osceola Windpower II, LLC, Paradise Solar Urban Renewal, L.L.C., Peetz Table Wind Energy, LLC, Pennsylvania Windfarms, Inc., Perrin Ranch Wind, LLC, Pheasant Run Wind, LLC, Pheasant Run Wind II, LLC, Red Mesa Wind, LLC, Sky River LLC, Somerset Windpower, LLC, Steele Flats Wind Project, LLC, Story Wind, LLC, Tuscola Bay Wind, LLC, Tuscola Wind II, LLC, Vasco Winds, LLC, Victory Garden Phase IV, LLC, Waymart Wind Farm, L.P., Wessington Wind Energy Center, LLC, White Oak Energy LLC, Wilton Wind II, LLC, Windpower Partners 1993, L.P.

*Description: Quarterly Land Acquisition Report of the NextEra Energy Companies.*

*Filed Date:* 12/19/13.

*Accession Number:* 20131219–5242.

*Comments Due:* 5 p.m. ET 1/9/14.

Take notice that the Commission received the following public utility holding company filings:

*Docket Numbers:* PH14–4–000.

*Applicants:* NV Energy, Inc.

*Description: Notice of Material Change In Facts_FERC–65B of NV Energy, Inc.*

*Filed Date:* 12/19/13.

*Accession Number:* 20131219–5246.

*Comments Due:* 5 p.m. ET 1/9/14.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR13–12–001.

*Applicants:* Western Electricity Coordinating Council.

*Description: Compliance Filing of Western Electricity Coordinating Council.*

*Filed Date:* 12/19/13.

*Accession Number:* 20131219–5243.

*Comments Due:* 5 p.m. ET 1/9/14.

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: December 20, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–31382 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC14–33–000.

*Applicants:* Kendall Green Energy Holdings LLC, NRG North America LLC, NRG Kendall LLC.

*Description:* Response to December 20, 2013 Request for a Description of Vertical Competitive Impacts of Kendall Green Energy LLC.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5256.

*Comments Due:* 5 p.m. ET 1/2/14.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers: ER10–2331–023; ER10–2343–021; ER10–2326–022; ER10–2330–022.*

*Applicants:* J.P. Morgan Ventures Energy Corporation, J.P. Morgan Commodities Canada Corporation, Cedar Brakes I, L.L.C., Utility Contract Funding, L.L.C.

*Description:* Updated Triennial Market Analysis for the Northwest Region of The JPMorgan Sellers.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5257.

*Comments Due:* 5 p.m. ET 2/21/14.

*Docket Numbers:* ER10–2428–002.

*Applicants:* Wheat Field Wind Power Project LLC.

*Description:* Notice of Non-Material Change in Status of Wheat Field Wind Power Project LLC.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5255.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers: ER10–2465–002; ER11–2657–003; ER12–1308–003; ER10–2464–002; ER13–1585–002.*

*Applicants:* Milford Wind Corridor Phase I, LLC, Milford Wind Corridor Phase II, LLC, Palouse Wind, LLC, First Wind Energy Marketing, LLC, Longfellow Wind, LLC.

*Description:* Market Power Update Analysis for Northwest Region of Milford Wind Corridor Phase I, LLC, et. al.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5265.

*Comments Due:* 5 p.m. ET 2/21/14.

*Docket Numbers:* ER12–2314–003.

*Applicants:* Spinning Spur Wind LLC.

*Description:* Spinning Spur Wind, LLC, Compliance Tariff Filing to be effective 12/24/2013.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5223.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–612–002.

*Applicants:* Skylar Energy LP.

*Description:* Amended Market-Based Rate Tariff to be effective 1/15/2014.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5201.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–819–000.

*Applicants:* El Paso Electric Company.

*Description:* Nonconforming Service Agreements to be effective 12/31/9998.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5224.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–820–000.

*Applicants:* Nevada Power Company.

*Description:* Rate Schedule No. 140 WECC Unscheduled Flow Mitigation Plan Concurrence to be effective 12/31/9998.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5226.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–821–000.

*Applicants:* Sierra Pacific Power Company.

*Description:* Rate Schedule No. 65 WECC Unscheduled Flow Mitigation Plan Concurrence to be effective 12/31/9998.

*Filed Date:* 12/23/13.

*Accession Number:* 20131223–5227.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–822–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Revisions to the PJM OATT, OA & RAA re DR as Capacity Resource to be effective 3/15/2014.

*Filed Date:* 12/23/13.

*Accession Number:* 20131224–5000.

*Comments Due:* 5 p.m. ET 1/13/14.

*Docket Numbers:* ER14–823–000.

*Applicants:* Portland General Electric Company.

*Description:* Attachment K URL to be effective 1/1/2014.

*Filed Date:* 12/23/13.

*Accession Number:* 20131224–5001.

*Comments Due:* 5 p.m. ET 1/13/14.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR14–1–000.

*Applicants:* North American Electric Reliability Corporation.

*Description:* Petition of the North American Electric Reliability Corporation for Approval of Proposed Revisions to the Southwest Power Pool Regional Entity Standards Development Process Manual.

*Filed Date:* 12/20/13.

*Accession Number:* 20131220–5431.

*Comments Due:* 5 p.m. ET 1/10/14.

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: December 24, 2013.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2013–31398 Filed 12–31–13; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM14–4–000]**

### North American Electric Reliability Corporation, Western Electricity Coordinating Council; Notice of Filing

Take notice that on December 20, 2013, the North American Electric Reliability Corporation (NERC) and the Western Electricity Coordinating Council submitted a joint petition requesting the Federal Energy Regulatory Commission (FERC or Commission) approve, in accordance with section 215(d)(1) of the Federal Power Act and section 39.5 of the Commission's regulations, 18 CFR 39.5, the Western Electricity Coordinating Council Regional Reliability Standard IRO–006–WECC–2-Qualified Transfer Path Unscheduled Flow Relief.

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 January 27, 2014.

Dated: December 26, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31401 Filed 12–31–13; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER14–661–000]**

### SG2 Imperial Valley, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SG2 Imperial Valley, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 13, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 24, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31335 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER14–772–000]**

### Fortistar North Tonawanda Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Fortistar North Tonawanda Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is January 15, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 26, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31402 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER14–787–000]**

### Macho Springs Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Macho Springs Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is January 13, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 24, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31338 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER14–722–000]**

### Utility Expense Reduction, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Utility Expense Reduction, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is January 13, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 24, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31337 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER14–663–000]**

### Energy Discounters, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Energy Discounters, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is January 13, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 24, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–31336 Filed 12–31–13; 8:45 am]

**BILLING CODE 6717–01–P**

## EXPORT-IMPORT BANK OF THE UNITED STATES

**[Public Notice: 2013–6008]**

### Agency Information Collection Activities: Comment Request

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Submission for OMB review and comments request.

*Form Title:* EIB 92–51 Application for Special Buyer Credit Limit Under the Multi-Buyer Export Credit Insurance Policy

**SUMMARY:** The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Application for Special Buyer Credit Limit under the Multi-Buyer Export Credit Insurance Policy is used by policyholders, the majority of whom are U.S. small businesses, who export U.S. goods and services. This application provides Ex-Im Bank with the credit information necessary to make a determination of eligibility of a transaction for Ex-Im Bank support with a foreign buyer credit request and to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

The application can be reviewed at: *http://www.exim.gov/pub/pending/eib9251_2-14-13.pdf* Application for Special Buyer Credit Limit Multi-buyer Credit Insurance Policy.

**DATES:** Comments should be received on or before March 3, 2014 to be assured of consideration.

**ADDRESSES:** Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Jean Fitzgibbon, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

**SUPPLEMENTARY INFORMATION:**

*Titles and Form Number:* EIB 92–51 Application for Special buyer credit Limit Multi-buyer Credit Insurance Policy.

*OMB Number:* 3048–0015.

*Type of Review:* Regular.

*Need and Use:* The information requested enables the applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

This form has been reorganized to present the information in a more logical manner. Additionally, questions related to the goods and/or services being exported have been removed as Ex-Im Bank already has that information. Two general questions, questions about the export sale, and questions about the applicant's experience with the proposed buyer

have been added to the application form. In order to reduce the burden impact on the applicant, many of the questions have been presented as Yes/No or check box questions. Including these questions in the application form will remove the need for Ex-Im Bank to contact the applicant for additional information after the application has been submitted.

**Affected Public**

This form affects entities involved in the export of U.S. goods and services.

The number of respondents: 3,400.

Estimated time per respondents: 35 minutes.

The frequency of response: Annually.

Annual hour burden: 1,983 total hours.

**Government Expenses**

Reviewing time per hour: 1 hour.

Responses per year: 3,400.

Reviewing time per year: 3,400 hours.

Average wages per hour: $42.50.

Average cost per year: (time * wages) $144,500.

Benefits and overhead: 20%.

Total Government Cost: $173,400.

**Alla Lake,**

*Agency Clearance Officer, Acting, Office of the Chief Information Officer.*

[FR Doc. 2013–31409 Filed 12–31–13; 8:45 am]

**BILLING CODE 6690–01–P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

*Agreement No.:* 012064–003.

*Title:* Hapag-Lloyd/NYK Mexico-Dominican Republic Slot Exchange Agreement.

*Parties:* Hapag-Lloyd AG and Nippon Yusen Kaisha.

*Filing Party:* Joshua P. Stein, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006.

*Synopsis:* The amendment would increase the amount of space to be exchanged under the agreement.

*Agreement No.:* 012240.

*Title:* Seaboard/BBC Space Charter Agreement.

*Parties:* Seaboard Marine Ltd.; and BBC Chartering Carriers GmbH & Co. KG and BBC Chartering & Logistic GmbH & Co. KG.

*Filing Party:* Joshua P. Stein, Esq.; Sher & Blackwell LLP; 1850 M Street NW.; Suite 900; Washington, DC 20036.

*Synopsis:* The Agreement authorizes the parties to charter space to each other in the trade between the U.S. Gulf Coast and the West Coast of South America.

Dated: December 27, 2013.

By Order of the Federal Maritime Commission.

**Karen V. Gregory,**

*Secretary.*

[FR Doc. 2013–31405 Filed 12–31–13; 8:45 am]

**BILLING CODE 6730–01–P**

## Federal Trade Commission

**[File No. 131 0159]**

### Fidelity National Financial, Inc./Lender Processing Services, Inc.; Analysis of Agreement Containing Consent Orders to Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis of Agreement Containing Consent Orders to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before January 23, 2014.

**ADDRESSES:** Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/fidelitynationalconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Fidelity National Financial, Inc./Lender Processing Services, Inc.—Consent Agreement; File No. 131 0159'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/fidelitynationalconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Jessica S. Drake, Bureau of Competition, (202–326–3144), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 24, 2013), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 23, 2014. Write ''Fidelity National Financial, Inc./Lender Processing Services, Inc.—Consent Agreement; File No. 131 0159'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is

privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/fidelitynationalconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Fidelity National Financial, Inc./Lender Processing Services, Inc.—Consent Agreement; File No. 131 0159'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 23, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

**Analysis of Agreement Containing Consent Orders To Aid Public Comment**

**I. Introduction**

The Federal Trade Commission (''Commission'' or ''FTC'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from Fidelity National Financial, Inc. (''Fidelity'') and Lender Processing Services, Inc. (''LPS'') (collectively, ''Respondents''). Fidelity proposes to acquire LPS, a combination that would reduce competition in seven relevant markets in Oregon where Respondents own overlapping title plant assets. The proposed Consent Agreement remedies the competitive concerns arising from the acquisition. The proposed Consent Agreement requires, among other things, that Respondents divest: A copy of LPS's title plants covering Clatsop, Columbia, Coos, Josephine, Polk, and Tillamook counties in Oregon; and an ownership interest equivalent to LPS's share in a joint title plant serving the Portland, Oregon, metropolitan area.

On May 28, 2013, Respondents entered into an acquisition agreement under which Fidelity would acquire all of the outstanding common stock of LPS for approximately $2.9 billion (the ''Acquisition''). The Commission's Complaint alleges that the acquisition agreement constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act by eliminating actual, direct, and substantial competition between Respondents and by increasing the likelihood of collusion or coordinated interaction in the relevant geographic markets.

**II. The Parties**

Fidelity, a publicly traded company headquartered in Jacksonville, Florida, provides title insurance, transaction services, and technology solutions to the mortgage industry. Fidelity is the nation's largest title insurance company, operating six underwriting subsidiaries.

LPS, a publicly traded company headquartered in Jacksonville, Florida, provides transaction services and technology solutions to the mortgage industry. LPS's transaction services include title insurance underwriting provided by its National Title Insurance of New York, Inc. (''NTNY'') subsidiary.

Respondents own overlapping title plants in Clatsop, Columbia, Coos, Josephine, Polk, and Tillamook counties, Oregon. Fidelity and LPS are also partners in a title plant serving the tri-county Portland, Oregon, metropolitan area, consisting of Clackamas, Multnomah, and Washington counties.

**III. Title Information Services**

Lenders require assurance of title before issuing a mortgage loan, typically in the form of title insurance. Title insurance protects against the risk that a sale of real property fails to result in the transfer of clear title. Before a title insurance policy can issue, a title agent or abstractor must first conduct a title search. Title search is the due diligence process that enables title insurance underwriters to assess (and mitigate, if necessary) the risk of subsequent title challenges. The title agent or abstractor examines property-specific records to establish the chain of title and to identify any potential obstacles—such as liens or encumbrances—that might impair the transfer of title.

To facilitate the title search process, title agents and underwriters often utilize title plants. Title plants are privately-owned (either individually or jointly) databases of information detailing the title status of real property parcels. Title plants compile, normalize, and re-index county-level property records, which are often difficult to access or inefficient to search directly. Oregon law requires title insurers and title insurance producers, who are the sole users of title information services, to own an interest in a title plant in each county in which they issue policies. This law means that there are no alternatives to title plants in Oregon counties.

**IV. The Complaint**

The Commission's Complaint alleges that the acquisition agreement between Fidelity and LPS constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45. The Complaint further alleges that consummation of the agreement may substantially lessen competition in the provision of title information services in seven relevant markets in Oregon, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act.

The Complaint alleges that a relevant product market in which to analyze the effects of the Acquisition is the provision of title information services. ''Title information services'' means the provision of selected information, or access to information, contained in a title plant to a customer or user.

The Complaint alleges that the relevant geographic markets are local in

nature. Title information is generated, collected, and used on a county (or county-equivalent) level. Therefore, geographic markets for title information services are highly localized and consist of each of the counties or other local jurisdictions covered by the title plants at issue. The geographic areas of concern outlined in the Complaint are Clatsop, Columbia, Coos, Josephine, Polk, and Tillamook counties, Oregon; and the tri-county Portland, Oregon, metropolitan area, consisting of Clackamas, Multnomah, and Washington counties.

The Complaint alleges, absent the proposed relief, that the Acquisition would increase the risk of coordinated anticompetitive effects in the relevant markets. In Clatsop, Columbia, Coos, and Tillamook counties, the Acquisition would reduce the number of independent title plant owners to two. In Josephine and Polk counties, the Acquisition would leave only three independent title plant owners. In each of these six counties, each title plant has a single owner that is also the title plant's sole user. In contrast, one jointly-owned title plant serves the Portland, Oregon, metropolitan area; each co-owner has full access to this title plant. The Acquisition would leave five joint owners of that joint title plant, but would reduce the number of owners necessary to expel other owners from the joint title plant.

The Complaint alleges that entry would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects of the Acquisition. *De novo* entry would be costly and time-consuming, requiring any potential entrant to assemble a complete and accurate index of historical property records.

## V. The Proposed Consent Agreement

The proposed Consent Agreement will remedy the Commission's competitive concerns resulting from the Acquisition in each of the relevant markets discussed above. Pursuant to the proposed Consent Agreement, Respondents must divest a copy of LPS's title plants serving Clatsop, Columbia, Coos, Josephine, Polk, and Tillamook counties, Oregon, to a Commission-approved acquirer. Respondents must complete these divestitures within five (5) months of the closing date of the Acquisition. The required divestitures will eliminate the competitive harm that otherwise would have resulted in these counties by restoring the number of independent title plant owners within each county to the pre-acquisition level.

The proposed Consent Agreement also requires Respondents to divest an ownership interest equivalent to LPS's share in the joint title plant that serves the Portland, Oregon, metropolitan area to a Commission-approved buyer. Respondents must complete this divestiture within five (5) months of the closing date of the Acquisition. The proposed Consent Agreement requires that the divestiture purchaser's interest in the joint title plant, when combined with Fidelity's post-merger interest, must not equal or exceed 70 percent. The divestiture will ensure that no two joint owners of the plant could coordinate to expel other members of the joint title plant in this relevant market. The proposed Consent Agreement further prohibits Fidelity from exercising its voting rights, or influencing others to exercise their voting rights, to expel the divestiture buyer from the joint title plant for failure to conduct an active title business for a period of three (3) months.

In addition to the required divestitures, the proposed Consent Agreement obligates Respondents to provide the Commission with prior written notice of title plant acquisitions in any county in Oregon in three sets of circumstances: (1) If the acquisition would result in three or fewer title plants covering the county; (2) if the acquisition would result in three or fewer owners of a joint plant; and (3) if the acquisition would result in Fidelity controlling a 50 percent or greater share in a joint plant. Each of these circumstances would raise competitive concerns in the market for title information services, and could reduce competition in the market for title insurance underwriting in Oregon. These transactions likely would not come to the Commission's attention without the prior notification provision.

## VI. The Order To Maintain Assets

The Decision and Order and the Order to Maintain Assets obligate Fidelity to continue to update and maintain the individual title plants, the Portland Tri-County Plant interest, and the Portland Tri-County Plant until the required divestitures are complete. This will ensure that the divested assets remain viable sources of title information to support the title insurance underwriting operations of the acquirer or acquirers. The Order to Maintain Assets explicitly requires Fidelity not to compromise these assets' ability and suitability to meet Oregon's requirements for title insurers and title insurance producers.

## VII. Opportunity for Public Comment

The Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the Consent Agreement and the comments received and will decide whether it should withdraw from the Consent Agreement, modify it, or make it final.

By accepting the proposed Consent Agreement subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite and inform public comment on the Consent Agreement, including the proposed divestitures. This analysis is not intended to constitute an official interpretation of the Consent Agreement, nor is it intended to modify the terms of the Consent Agreement in any way.

## Statement of the Federal Trade Commission

Today the Commission is taking remedial action with respect to the proposed acquisition of Lender Processing Services, Inc. by Fidelity National Financial, Inc. We believe Fidelity's acquisition of LPS, which would combine the two firms' title plants, among other assets, is likely to reduce competition that benefits title insurance consumers in nine counties in the state of Oregon. Our proposed remedy is tailored to counteract the likely anticompetitive effects of the proposed acquisition without eliminating any efficiencies that might arise from the combination of the two companies.

Fidelity is a leading provider of mortgage and other services to the mortgage industry and is the largest title insurance underwriter in the United States. LPS's underwriting activity is small by comparison, a complementary operation to LPS's key business as a leading provider of technology solutions, transaction services, and data and analytics to the mortgage and real estate industries.

Our competitive concerns arise from a limited aspect of the $2.9 billion combination of Fidelity and LPS: the title plant assets each company uses to support its title insurance underwriting activities in certain Oregon counties. Both Fidelity and LPS own title plants covering Oregon's Clatsop, Columbia, Coos, Josephine, Polk, and Tillamook counties. Both firms are also joint

owners of a title plant covering the tri-county Portland metropolitan area.

Title insurance underwriters require access to county-level title information contained in title plant databases. In Oregon, state law requires title insurance underwriters or their agents to own a title plant in each county in which they issue policies. As a result, any firm offering title insurance underwriting in Oregon must obtain an ownership interest in an existing title plant or build one from scratch. Fidelity and LPS compete for title insurance customers in the nine Oregon counties of concern. The proposed acquisition will eliminate one of only a few underwriters available in each relevant market,[1] and the Commission has reason to believe that no timely entrant is likely to replace the competition lost in these counties.

Although price competition in title insurance underwriting occurs at the state level, underwriters compete on the basis of service as well. For example, underwriters compete on the turnaround time from title order to settlement, enabling consumers to close on mortgage transactions more quickly. Moreover, the costs of entering the title insurance underwriting business are higher in Oregon because of the requirement that underwriters operating in the state own an interest in a title plant rather than merely purchase title information from a third-party provider. No other states where both Fidelity and LPS compete have a similar requirement. For these reasons, we have reason to believe that the proposed acquisition is likely to result in a loss of competition and harm title insurance customers.[2]

We respectfully disagree with Commissioner Wright that our action is based solely on the fact that the merger will decrease the number of underwriters operating in the relevant markets and that it is inconsistent with the 2010 Horizontal Merger Guidelines. Substantial increases in concentration caused by a merger play an important role in our analysis under the Guidelines because highly concentrated markets with two or three large firms are conducive to anticompetitive outcomes. The lens we apply to the evidence in a merger that reduces the number of firms in a market to two or three is, and should be, different than the lens we apply to a merger that reduces the number of firms to six or seven. In the former case, as in the merger here, a presumption of competitive harm is justified, under both the express language of the Guidelines and well-established case law.[3]

However, we did not end our analysis there. We also considered whether other market factors, such as the possibility of entry, might alleviate our competitive concerns. In most of the markets we considered, even where the merger would reduce the number of title plant operators from three to two, we concluded that the transaction was unlikely to lessen competition because the evidence demonstrated that alternative sources of title information beyond proprietary title plants existed. That is not the case in Oregon. We are also not persuaded that price regulation in Oregon is sufficient to address our concerns about potential competitive harm. The evidence showed that competition between underwriters occurs on nonprice dimensions, supporting our view that the transaction was likely to harm competition in the identified nine counties.

Consistent with the approach the Commission has taken in previous merger enforcement actions involving title plants,[4] the proposed consent order addresses these competitive concerns by requiring divestiture of a copy of LPS's title plants in each of the affected counties and an ownership interest equivalent to that of LPS in the tri-county Portland-area joint plant. With the divested assets, the acquirer or acquirers will have the title plant ownership interest necessary to overcome the most significant legal impediment to compete in underwriting, thereby preserving the competition that would be lost as a result of the acquisition. There is no evidence that the proposed consent order would eliminate any efficiencies resulting from the transaction or otherwise burden the parties.

Merger analysis is necessarily predictive and requires us to make a determination as to the likely effects of a transaction. Where, as here, we have reason to believe that consumers are likely to suffer a loss of competition, and there are no countervailing efficiencies weighing against the remedy, we believe the public interest is best served by remedying the competitive concerns.

By direction of the Commission, Commissioner Wright dissenting.

April Tabor,

*Acting Secretary.*

**Dissenting Statement of Commissioner Joshua D. Wright**

The Commission has voted to issue a Complaint and Decision & Order against Fidelity National Financial, Inc. (''FNF'') to remedy the allegedly anticompetitive effects of FNF's proposed acquisition of Lender Processing Services, Inc. (''LPS''). I dissented from the Commission's decision because the evidence is insufficient to provide reason to believe FNF's acquisition will substantially lessen competition for title information services in the Oregon counties identified in the Complaint in violation of Section 7 of the Clayton Act. I commend staff for their hard work in this matter. Staff has worked diligently to collect and analyze a substantial quantity of evidence related to numerous product and geographic markets within the U.S. mortgage lending industry. Based upon this evidence, I concluded there is no reason to believe the proposed transaction is likely to lessen competition in the Oregon counties identified in the Complaint. It follows, in my view, that the Commission should close the investigation and allow the parties to complete the merger without imposing a remedy.

**I. Mortgage Lending Industry Background**

Title insurance protects against the risk that a sale of real property fails to result in the transfer of clear title. Before a title insurance policy can issue, a title insurance underwriter must evaluate the risk that a subsequent title challenge will be made against the property. Title plants are privately owned repositories of real estate

[1] In Clatsop, Coos, Columbia, and Tillamook counties, only two title insurance underwriters will remain post-acquisition. In Josephine and Polk counties, three underwriters will remain. In the Portland tri-county area, the proposed acquisition will leave five competing title insurance underwriters as joint owners of the only title plant serving the Portland area. However, the transaction would reduce to two the number of joint owners with the ability to exclude all others from the plant.

[2] We note that, in deciding whether to issue a complaint, the relevant standard for the Commission is whether we have ''reason to believe'' a merger violates Section 7 of the Clayton Act, not whether a violation has in fact been established. 15 U.S.C. 45(b).

[3] 2010 Horizontal Merger Guidelines § 2.1.3 (''Mergers that cause a significant increase in concentration and result in highly concentrated markets are presumed to be likely to enhance market power, but this presumption can be rebutted by persuasive evidence showing that the merger is unlikely to enhance market power.''); *see also Chicago Bridge & Iron Co.* v. *FTC,* 534 F.3d 410, 423 (5th Cir. 2008) (''Typically, the Government establishes a *prima facie* case by showing that the transaction in question will significantly increase market concentration, thereby creating a presumption that the transaction is likely to substantially lessen competition.''); *FTC* v. *H.J. Heinz Co.,* 246 F.3d 708, 716 (D.C. Cir. 2001) (merger to duopoly creates a rebuttable presumption of anticompetitive harm through direct or tacit coordination).

[4] *See, e.g.,* Complaint, *Fidelity Nat'l Fin., Inc.,* FTC Dkt. No. C–4300 (Sept. 16, 2010), *available at http://www.ftc.gov/sites/default/files/documents/cases/2010/09/100916fidelitycmpt.pdf;* Complaint, *Fidelity Nat'l Fin., Inc.,* FTC Dkt. No. C–3929 (Feb. 25, 2000), *available at http://www.ftc.gov/sites/default/files/documents/cases/2000/02/fidelitycmp.pdf;* Complaint, *Commonwealth Land Title Ins. Co.,* FTC Dkt. No. C–3835 (Nov. 12, 1998), *available at http://www.ftc.gov/sites/default/files/documents/cases/1998/11/ftc.gov-9810127cmp.htm;* Complaint, *LandAmerica Fin. Grp., Inc.,* FTC Dkt. No. C–3808 (May 27, 1998), *available at http://www.ftc.gov/sites/default/files/documents/cases/1998/05/ftc.gov-9710115.cmp_.htm.*

records that help underwriters examine property-specific title information in order to establish chain of title and identify any potential obstacles—such as liens or encumbrances—that could impair the transfer of title. In recent years, third-party title information services have begun to offer an alternative to title plants by providing access to the necessary data and records on a transactional or subscription basis. However, in Oregon, state law requires all title insurance underwriters to own an interest in a title plant in each county in which it issues policies. This law therefore effectively precludes a market in third-party provision of title information services.[1]

**II. Coordinated Effects Analysis Under the Horizontal Merger Guidelines**

The Commission's theory of anticompetitive harm in this matter is based solely upon a structural analysis. In other words, the Commission seeks to satisfy its prima facie burden of production to demonstrate the merger will substantially lessen competition based exclusively upon a tenuous logical link between the reduction in the number of firms that own title plants in each of the Oregon counties identified in the Complaint and a presumption that the merger between FNF and LPS will increase the likelihood of collusion or coordinated interaction among the remaining competitors for the sale of title information services.[2]

It is of course true that a reduction in the number of firms in a relevant market, all else equal, makes it easier for the remaining firms to coordinate or collude.[3] However, this is true of any reduction of firms, whether it be from seven to six or three to two, and therefore that proposition alone would have us condemn all mergers. The pertinent question is whether and when a reduction in the number of firms, without more, gives reason to believe an acquisition violates the Clayton Act.[4] The Horizontal Merger Guidelines (''Guidelines'') clarify that the focus of modern coordinated effects analysis is not merely upon the number of firms but rather ''whether a merger is likely to change the manner in which market participants interact, inducing substantially more coordinated interaction.'' [5] The key economic issue underlying coordinated effects analysis is to understand how the merger changes incentives to coordinate, or, as the Guidelines explain, to examine ''how a merger might significantly weaken competitive incentives through an increase in the strength, extent, or likelihood of coordinated conduct.'' [6] Consistent with the focus on changes in post-merger incentives to coordinate rather than mere structural analysis, the Guidelines declare the federal antitrust agencies are not likely to challenge a merger based upon a coordinated effects theory of harm unless the following three conditions are satisfied: (1) ''the merger would increase concentration and lead to a moderately or highly concentrated market''; (2) ''the market shows signs of vulnerability to coordinated conduct''; and (3) ''the Agencies have a credible basis on which to conclude that the merger may enhance that vulnerability.'' [7]

Although market structure is relevant to assessing the first and second conditions, the Guidelines require more than the observation that the merger has decreased the number of firms to satisfy the third condition. This is the correct approach. And it is no less correct for mergers that reduce the number of firms from three to two. Of what relevance is market structure if the Commission does not allege or otherwise describe the relevance of the reduction in the number of firms to post-merger incentives to coordinate? There is no basis in modern economics to conclude with any modicum of reliability that increased concentration—without more—will increase post-merger incentives to coordinate.[8] Thus, the Guidelines require the federal antitrust agencies to develop additional evidence that supports the theory of coordination and, in particular, an inference that the merger increases incentives to coordinate.

For example, the Guidelines observe that ''an acquisition eliminating a maverick firm . . . in a market vulnerable to coordinated conduct is likely to cause adverse coordinated effects.'' [9] In short, the Guidelines correctly, and consistent with the modern economics of collusion, require the Commission to do more than point to a reduction in the number of firms to generate inferences of likely competitive harm. Although the acquisition of a maverick is not necessary for a coordinated effects theory, a theory consistent with the Guidelines must include a specific economic rationale explaining why—above the mere reduction in the number of firms attendant to all mergers—the acquisition of this rival is likely to eliminate or reduce a constraint upon successful coordination and thus lead to increased incentives to coordinate, or alternatively, some evidence supporting structural inferences in the context of the specific transaction.

**III. Insufficient Evidence To Conclude an Increased Likelihood of Coordination Exists Post-Merger**

In my view, the Commission's coordinated effects theory and the evidence to support it do not provide a credible basis for concluding the merger between FNF and LPS will enhance incentives to coordinate. There is no evidence beyond the mere increase in the concentration of title plants in the Oregon counties identified in the Complaint that provides a reason to believe that the merger will increase the likelihood or coordination or collusion for title insurance underwriting and thereby substantially reduce competition for the same.

Significantly, because insurance rates are generally set at the state level and also

[1] It is important to note at the outset that Oregon's vertical integration requirement creates a scenario in which there is no relevant market for title information services in Oregon. As a result, any competitive concerns arising from increased concentration in title plant ownership must be based upon anticompetitive effects in the downstream title insurance underwriting market in Oregon. The Commission does not allege, and there is no evidence to support the conclusion, that the merger will result in a substantial lessening of competition in the title insurance underwriting market in Oregon.

[2] The Complaint appears to allege that the proposed transaction also may result in unilateral effects by stating the proposed merger will substantially lessen competition ''by eliminating actual, direct, and substantial competition between Respondents Fidelity and LPS in the relevant markets.'' Complaint ¶ 16(a), Fidelity National Financial, Inc., FTC File No. 131–0159 (Dec. 23, 2013). I have seen no evidence to support a unilateral effects theory of harm in either the title insurance services or title insurance underwriting markets. Nor does the Commission's Analysis to Aid Public Comment discuss the potential for a unilateral effects theory in this matter. *See* Analysis of the Agreement Containing Consent Order to Aid Public Comment § 4, Fidelity National Financial, Inc., FTC File No. 131–0159 (Dec. 23, 2013). Moreover, the merger cannot possibly result in unilateral effects in the title insurance services market because no such market exists in Oregon as a result of the state's vertical integration requirement.

[3] *See generally* George J. Stigler, *A Theory of Oligopoly,* 72 J. Pol. Econ. 44 (1964).

[4] One reason to disfavor an approach that assesses the likelihood of anticompetitive effects based solely upon the number of firms in a market is that the approach is sensitive to the market definition exercise and requires great faith that we have defined the relevant market correctly.

[5] U.S. Dep't of Justice & Fed. Trade Comm'n, Horizontal Merger Guidelines § 7.1 (2010) [hereinafter 2010 Guidelines], *available at http://www.justice.gov/atr/public/guidelines/hmg-2010.pdf.*

[6] *Id.*

[7] *Id.*

[8] The Commission touts legal authority rooted in a long ago established legal presumption that disfavors mergers that create concentrated markets. Statement of the Commission, Fidelity National Financial, Inc., FTC File No. 131–0159, n. 2. (Dec. 23, 2013) (citing to authority); *see also United States* v. *Philadelphia Nat'l Bank,* 374 U.S. 321 (1963) (creating the so-called ''structural presumption'' that shifts the burden of proof away from the federal antitrust agencies and towards defendants in cases where the government challenges certain mergers resulting in concentrated markets). Significantly, however, modern economic learning and evidence no longer supports the foundations for the structural presumption upon which the Commission relies today. *See* Joshua D. Wright, Comm'r, Fed. Trade Comm'n, The FTC's Role in Shaping Antitrust Doctrine: Recent Successes and Future Targets, Remarks at the 2013 Georgetown Global Antitrust Symposium Dinner (Sept. 24, 2013), *available at http://www.ftc.gov/sites/default/files/documents/public_statements/ftc%E2%80%99s-role-shaping-antitrust-doctrine-recent-successes-and-future-targets/130924globalantitrustsymposium.pdf.* And although *Philadelphia National Bank* remains good law in that it has not been overruled by the Supreme Court, it should not be the basis for the Commission's decision if the economic foundations upon which the legal proposition was built no longer hold. The Commission has correctly taken a similar approach with other disavowed but not yet overturned precedent, such as, for instance, *United States* v. *Von's Grocery Co.,* 385 U.S. 270 (1966).

[9] *See* 2010 Guidelines, *supra* note 5, § 7.1. The Guidelines define a maverick as a firm ''that plays a disruptive role in the market to the benefit of customers,'' and provide a number of examples. *See id.* § 2.1.5. Each example has in common the acquisition of a firm that imposes a particularized constraint upon successful coordination before the merger. *See* Jonathan B. Baker, *Mavericks, Mergers and Exclusion: Proving Coordinated Competitive Effects Under the Antitrust Laws,* 77 N.Y.U.L. Rev. 135 (2002); Taylor M. Owings, *Identifying a Maverick: When Antitrust Law Should Protect a Low-Cost Competitor,* 66 Vand. L. Rev. 323 (2013).

because Oregon is a ''prior approval'' state in which underwriters must request specific rates that the regulator then approves or amends, it is unlikely that concentration in title plant ownership at the county level can increase the likelihood of collusion or coordinated interaction and thereby result in an increase in price.[10] There also is no evidence that FNF's acquisition of LPS will eliminate a maverick that is currently a constraint upon successful coordination. Furthermore, there is no evidence that title insurance underwriters can effectively coordinate on non-price factors, such as service and turnaround time. Lastly, there is no empirical evidence demonstrating that similar levels and changes in concentration in other title information service markets have resulted in a reduction in price or non-price competition.

Section 7 of the Clayton Act requires that the Commission first find that a merger likely will substantially lessen competition prior to agreeing to enter into a consent agreement with merging parties. Because there is insufficient evidence to conclude that the proposed transaction will substantially lessen competition, I respectfully dissent and believe the Commission should close the investigation and allow the parties to complete the merger without imposing a remedy.

[FR Doc. 2013–31331 Filed 12–31–13; 8:45 am]

BILLING CODE 6750–01–P

[10] Notably absent from the Commission's statement is any explanation of how the proposed transaction will increase the parties' incentives to coordinate on non-price terms post-merger. Such analysis is fundamental to modern merger analysis under the Guidelines. *See* 2010 Guidelines, *supra* note 5, § 7.1 (''The Agencies examine whether a merger is likely to change the manner in which market participants interact, inducing substantially more coordinated interaction.'').

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0012; Docket 2013–0077; Sequence 11]**

## Submission for OMB Review; Termination Settlement Proposal Forms–FAR (Standard Forms 1435 Through 1440)

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension, with changes, to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Termination Settlement Proposal Forms–FAR (Standard Forms 1435 through 1440), as prescribed at FAR subpart 49.6, Contract Termination Forms and Formats. A notice was published in the **Federal Register** at 78 FR 59009 on September 25, 2013. No comments were received.

**DATES:** Submit comments on or before February 3, 2014.

**ADDRESSES:** Submit comments identified by Information Collection 9000–0012, Termination Settlement Proposal Forms–FAR (Standard Forms 1435 through 1440) by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 9000–0012; Termination Settlement Proposal Forms–FAR (Standard Forms 1435 through 1440)''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0012; Termination Settlement Proposal Forms–FAR (Standard Forms 1435 through 1440)''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0012; Termination Settlement Proposal Forms–FAR (Standard Forms 1435 through 1440)'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. ATTN: Hada Flowers/IC 9000–0012.

*Instructions:* Please submit comments only and cite Information Collection 9000–0012, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Curtis E. Glover Sr., Procurement Analyst, Federal Acquisition Policy Division, at 202–501–1448.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

The termination settlement proposal forms (Standard Forms 1435 through 1440) provide a standardized format for listing essential cost and inventory information needed to support the terminated contractor's negotiation position per FAR subpart 49.6—Contract Termination Forms and Formats. Submission of the information assures that a contractor will be fairly reimbursed upon settlement of the terminated contract.

### B. Annual Reporting Burden

Based on data retrieved from the Federal Procurement Data System (FPDS) there was an estimated average of 10,152 contracts to 5,949 unique vendors that would have been subject to the termination settlement proposal forms (Standard Forms 1435 through 1440). This data was based on the estimate average number of terminations for convenience (complete or partial) for Fiscal Years, 2010, 2011, and 2012. In consultation with subject matter experts, it was determined that the 5,949 unique vendors was a sufficient baseline for estimating the number of respondents. It is therefore estimated that approximately 5,949 respondents would need to comply with this information collection. The estimated number of responses per respondent for this information collection is based on an estimated average number of respondents divided by the estimated average number of unique vendors (1.7). Additionally, in discussion with subject matter experts, it was estimated that the previously approved burden hours per response of 2.4 hours is still relevant for this information collection. No public comments were received in prior years that have challenged the validity of the Government's estimate. The revisions to this information collection reflect a significant upward adjustment from what was published in the **Federal Register** at 75 FR 63831 on October 18, 2010. This increase is based on a revision to the estimated number of respondents that would be subject to this information collection.

*Respondents:* 5,949.

*Responses per Respondent:* 1.7.

*Total Responses:* 10,113.

*Hours per Response:* 2.4.

*Total Burden Hours:* 24,271.

*Obtaining Copies of Proposals:* Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001, telephone 202–501–4755. Please cite OMB Control No. 9000–0012, Termination Settlement Proposal Forms–FAR (SF's 1435 through 1440), in all correspondence.

Dated: December 27, 2013.

**Karlos Morgan,**

*Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2013–31413 Filed 12–31–13; 8:45 am]

**BILLING CODE 6820–34–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–40B, CMS–2088–92, and CMS–R–297 (CMS–L564)]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by *February 3, 2014.*

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Application for Enrollment in Medicare the Medical Insurance Program; *Use:* Form CMS–40B is used to establish entitlement to and enrollment in supplementary medical insurance for beneficiaries who already have Part A, but not Part B. The form solicits information that is used to determine enrollment for individuals who meet the requirements in section 1836 of the Social Security Act as well as the entitlement of the applicant or a spouse regarding a benefit or annuity paid by the Social Security Administration or the Office of Personnel Management for premium deduction purposes. The Social Security Administration will use the collected information to establish Part B enrollment. *Form Number:* CMS–40B (OCN: 0938-New); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 200,000; *Total Annual Responses:* 200,000; *Total Annual Hours:* 50,000. (For policy questions regarding this collection contact Lindsay Smith at 410–786–6843.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Outpatient Rehabilitation Facility, Community Mental Health Center Cost Report and Supporting Regulations; *Use:* The cost reports are required to be filed with the provider's Medicare Administrative Contractor (MAC). The MAC uses the cost reports to calculate the provider's cost to charge ratios which are used to compute outlier payments and to determine a provider's final cost settlement by comparing the provider's interim payments received to the reasonable cost for the fiscal period covered by the cost report.

The collection of data is a secondary function of the cost report. We use the data to support program operations, payment refinement activities, and to make Medicare Trust Fund projections. We along with other stakeholders use the data to analyze a myriad of health care measures on a national level. Stakeholders include the Office of Management and Budget, the Congressional Budget Office, the Medicare Payment Advisory Commission, Congress, researchers, universities, and other interested parties. *Form Number:* CMS–2088–92 (OCN: 0938–0037); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 540; *Total Annual Responses:* 540; *Total Annual Hours:* 54,000. (For policy questions regarding this collection contact Jill Keplinger at 410–786–4550.)

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Request for Employment Information; *Use:* Section 1837(i) of the Social Security Act provides for a special enrollment period for individuals who delay enrolling in Medicare Part B because they are covered by a group health plan based on their own or a spouse's current employment status. Disabled individuals with Medicare may also delay enrollment because they have large group health plan coverage based on their own or a family member's current employment status. When these individuals apply for Medicare Part B, they must provide proof that the group health plan coverage is (or was) based on current employment status. *Form*

*Number:* CMS–R–297 (CMS–L564) (OCN: 0938–0787); *Frequency:* Once; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 15,000; *Total Annual Responses:* 15,000; *Total Annual Hours:* 5,000. (For policy questions regarding this collection contact Lindsay Smith at 410–786–6843.)

Dated: December 27, 2013.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2013–31390 Filed 12–31–13; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request: Cardiovascular Health and Needs Assessment in Washington, DC—Development of a Community-Based Behavioral Weight Loss Intervention

*Summary:* In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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.

*To Submit Comments and for Further Information:* To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact either: Eric Shropshire, Outreach & Research Coordinator, or Dr. Tiffany Powell-Wiley, Assistant Clinical Investigator, CPB, DIR, NHLBI, NIH, 10 Center Drive, Building 10–CRC, 5–3340,, Bethesda, MD 20892, or call non-toll-free number Eric Shropshire, (301) 827–4981–5579 or Dr. Powell-Wiley, (301) 594–3735, or Email your request, including your address to either *Eric.Shropshire@nih.gov* or *Tiffany.Powell-Wiley@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

*Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

*Proposed Collection:* Cardiovascular Health and Needs Assessment in Washington, DC—Development of a Community-Based Behavioral Weight Loss Intervention, -New, National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The purpose and use of the information collection for this project is to determine the prevalence of ideal, intermediate, and poor cardiovascular health factors based on American Heart Association (AHA)-defined goals within a church-based population in wards 5, 7, and 8 in Washington, DC. The information collected will also evaluate data from handheld devices, such as wearable physical activity monitors or digital cameras, to objectively measure physical activity and dietary intake from selected community members. This protocol will then identify technology that may be incorporated into future interventions. In addition, the collected information used will be examined for methods of referral for treatment for unrecognized hypertension, diabetes, and hypercholesterolemia in the community-based population. Social determinants of obesity, particularly environmental, cultural, and psychosocial factors that might help or hinder weight loss, will be evaluated in the population. This information from the screening and needs assessment will establish a CBPR partnership for the future design and implementation of a church-based, behavioral weight loss intervention.

OMB approval is requested for 2 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,380.

ESTIMATED ANNUALIZED BURDEN HOURS

A.12—1 Estimates of Hour Burden

| Type of respondents | Number of respondents | Frequency of response | Average time per response | Annual hour burden |
|---|---|---|---|---|
| Consent Process | 100 | 1 | 15/60 | 25 |
| Clinical Evaluation | 100 | 1 | 30/60 | 50 |
| Survey Instrument | 100 | 1 | 1 | 100 |
| Device Training | 100 | 2 | 1 | 200 |
| Health Data Monitoring | 100 | 2 | 10 | 2,000 |
| Device Return | 15 | 1 | 18/60 | 5 |

Dated: December 18, 2013.

**Robert S. Balaban,**

*Scientific Director, DIR, NHLBI, NIH.*

Dated: December 23, 2013.

**Lynn Susulske,**

*NHLBI Project Clearance Liaison, National Institutes of Health.*

[FR Doc. 2013–31430 Filed 12–31–13; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) notifies federal agencies of the Laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently certified laboratories and IITF is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

**SUPPLEMENTARY INFORMATION:** The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and Instrumented Initial Testing Facilities (IITF) must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant Laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a Laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITF in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A Laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following Laboratories and Instrumented Initial Testing Facilities (IITF) meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

**Instrumented Initial Testing Facilities (IITF)**

None.

**Laboratories**

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400 (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories).

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370 (Formerly: SmithKline Beecham Clinical Laboratories).

Redwood Toxicology Laboratory, 3650 Westwind Blvd., Santa Rosa, CA 95403, 707–570–4434 .

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276.

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

**Janine Denis Cook,**

*Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.*

[FR Doc. 2013–31377 Filed 12–31–13; 8:45 am]

BILLING CODE 4160–20–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R5–ES–2013–0132; FXHC11220500000]**

### Preparation of an Environmental Assessment in Consideration of Issuance of a Bald Eagle Programmatic Take Permit and Implementation of the Associated Eagle Conservation Plan for the Great Bay Wind Energy Project, Somerset County, Maryland

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent, notice of scoping meeting, and request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), intend to prepare an environmental assessment (EA) to address the potential impacts of the issuance of a programmatic eagle take permit (permit) pursuant to the Bald and Golden Eagle Protection Act (BGEPA). The permit would authorize the taking of bald eagles associated with the construction and operation of the proposed Great Bay Wind Energy Project (Project) and implementation of an associated eagle conservation plan (ECP). The issuance of an eagle take permit is a Federal action subject to analysis under the National Environmental Policy Act of 1969 (NEPA). We provide this notice to announce the initiation of a public scoping period during which we invite other agencies and the public to submit written comments that provide suggestions and information on the scope of issues and alternatives to be addressed in the EA. We also announce that we will hold a public meeting where oral and written comments will also be accepted.

**DATES:** Written comments must be received on or before February 3, 2014. We will hold one public scoping meeting; see *Public Meeting* under **SUPPLEMENTARY INFORMATION** for the date, time, and location.

**ADDRESSES:** Comments concerning the issuance of the programmatic eagle take permit and the preparation of the associated EA should be identified as such, and may be submitted by one of the following methods:

- *http://www.regulations.gov/.*
- U.S. Mail: U.S. Fish and Wildlife Service, Attn: Sarah Nystrom, Ecological Services, 300 Westgate Center Drive, Hadley, MA 01035.
- In-Person Drop-off, Viewing, or Pickup: Written comments will be accepted at the public meeting on Wednesday, January 15, 2014, or can be dropped off during regular business hours at the address above.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah Nystrom, Regional Bald and Golden Eagle Coordinator, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035; 413–253–8592 (telephone); *Sarah_Nystrom@fws.gov* (electronic mail). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

#### Introduction

We publish this notice under NEPA, as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations (40 CFR 1506.6), as well as in compliance with BGEPA (16 U.S.C. 668–688d).

Great Bay Wind I, LLC (Applicant), a subsidiary of Lavaca Wind, LLC which is an affiliate of Pioneer Green Energy, LLC, has applied for a programmatic eagle take permit for the taking of bald eagles (*Haliaeetus leucocephalus*) associated with the Project. We intend to gather the information necessary to prepare a draft EA to evaluate the impacts of, and alternatives to, the proposed issuance of a permit under BGEPA to the Applicant for the

construction and operation of the Project and implementation of an associated ECP.

The Applicant would own, construct, and operate the Project. The Project would be located on 12,046 acres (4,875 hectares) of private agricultural lands in Somerset County, Maryland, and would consist of 25 wind turbine generators, access roads, an electrical collection system, an operations and maintenance building, a switchyard, and a substation. The Project would generate up to 90 megawatts and is anticipated to have a lifespan of up to 30 years.

The Applicant will develop an ECP in coordination with the Service as part of its application for a permit. The objectives of the ECP will be to describe the environmental conditions in the Project area, summarize the results of eagle studies to date, develop an assessment of impacts to bald eagles, develop avoidance and minimization elements, and describe compensatory mitigation measures for unavoidable impacts that might result from site selection, construction, and operation of the project.

**Environmental Assessment**

The NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. The proposed action presented in the draft EA will be compared to a reasonable range of alternatives, including a no-action alternative. The no-action alternative would represent estimated future conditions without the application for, or issuance of, a permit.

The proposed action for the EA is the Service's decision whether to issue a permit pursuant to BGEPA (50 CFR 22.26) for the take of bald eagles associated with, but not the purpose of, the construction and operation of the Project and implementation of the associated ECP. The BGEPA defines ''take'' as ''to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb individuals, their nests and eggs'' (50 CFR 22.3). ''Disturb'' means to agitate or bother an eagle to a degree that causes or is likely to cause (1) injury to an eagle; (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior (50 CFR 22.3).

Issuance of an eagle take permit is a Federal action subject to analysis of potential environmental impacts under NEPA. The Service will prepare an EA to help decide whether to issue a permit authorizing take of bald eagles associated with the Project. Upon review of the EA, the Service will conclude the EA process with one of the following: (1) A finding of no significant impact; (2) a notice of intent to prepare an environmental impact statement; or (3) a result that no further action is taken on the proposal.

**Environmental Review and Next Steps**

The Service will conduct an environmental review to analyze the proposed action, along with other alternatives and the associated impacts of each. The draft EA will provide the basis for the impact evaluation for each potentially affected resource and the range of alternatives to be addressed. The draft EA is expected to provide biological descriptions of the affected species and habitats, as well as the effects of the alternatives on other resources, such as vegetation, wetlands, wildlife, geology and soils, air quality, water resources, water quality, cultural resources, land use, recreation, visual resources, local economy, and environmental justice.

Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on the draft EA. The draft EA is expected to be completed and available to the public in 2014.

**Public Meeting**

The primary purpose of the scoping process is for the public to assist the Service in developing a draft EA by identifying important issues and alternatives related to permit issuance, to provide the public with a general understanding of the background of the eagle permit process and activities it would cover, and an overview of the NEPA process.

The scoping meeting will be held on January 15, 2014, from 6 to 8 p.m. at the J.M. Tawes Technology & Career Center, 7982 Crisfield Highway, Westover, MD 21871. The primary purpose of the meeting and associated public comment period is to solicit suggestions and information on the scope of issues and alternatives for the Service to consider when drafting the EA. The meeting format will consist of an open house prior to, and directly following, the formal scoping meeting. The open house format will provide an opportunity to learn about the Project and the proposed action. The initial open house will be followed by a formal presentation of the proposed action, summary of the NEPA process, and an opportunity for the public to ask questions and provide oral comments. Both oral and written comments will be accepted at the meeting. Comments can also be submitted by methods listed in the **ADDRESSES** section. Once the draft EA is complete and made available for review, there will be an additional opportunity for public comment on the content of that document through a public meeting and comment period.

**Public Comments**

We request data, comments, new information, and suggestions from the public, other concerned governmental agencies, the scientific community, industry and any other interested party on this notice. We will consider these comments in developing the draft EA. We particularly seek comments on the following:

1. The direct, indirect, and cumulative effects that implementation of any reasonable alternative could have on bald eagles, other wildlife species, and their habitats;
2. Other reasonable alternatives (in addition to permit issuance and no-action), for consideration and their associated effects;
3. Relevant biological data and additional information concerning bald eagles;
4. Current or planned activities in the Project area and their possible impacts on bald eagles;
5. The presence of archaeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
6. Any other environmental issues that should be considered with regard to the proposed Project and permit action.

Comments and materials we receive, as well as supporting documentation we use in preparing the EA, will be available for public inspection by appointment, during normal business hours, at our office (see **FOR FURTHER INFORMATION CONTACT**).

**Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. Before including your address, telephone number, electronic mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

**Meeting Location Accommodations**

Please note that the meeting location is accessible to wheelchair users. If you require additional accommodations, please notify us at least 1 week in advance of the meeting.

**Authority**

We provide this notice under NEPA regulations (40 CFR 1501.7 and 1508.22). The intent of the notice is to enable us to obtain suggestions and additional information from other agencies and the public on the scope of issues to be considered.

Dated: December 11, 2013.

**Martin Miller,**

*Acting Assistant Regional Director, Ecological Services, Northeast Region.*

[FR Doc. 2013–31394 Filed 12–31–13; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLAZ910000.L12100000.XP0000LXSS150A00006100.241A]**

### State of Arizona Resource Advisory Council Meetings

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meetings.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona Resource Advisory Council (RAC) will meet in Phoenix, Arizona, as indicated below.

**DATES:** The RAC Working Groups will meet on January 28 from 8:30 a.m. to 4:30 p.m., and the Business meeting will take place January 29 from 8 a.m. to 4 p.m.

**ADDRESSES:** The meetings will be held at the BLM National Training Center located at 9828 North 31st Avenue, Phoenix, Arizona 85051.

**FOR FURTHER INFORMATION CONTACT:** Dorothea Boothe, Arizona RAC Coordinator at the Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, 602–417–9504. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Arizona. Planned agenda items include: A welcome and introduction of Council members; BLM State Director's update on BLM programs and issues; updates on the RAC Colorado River District Grazing Subcommittee; Section 106 Consultation Process; Department of the Interior Themes and Landscape Level Opportunities for BLM; Sonoran Landscape Pilot; U.S. Forest Service Recreation Fee Program Proposals; reports by the RAC Working Groups; RAC questions on BLM District Manager Reports; and other items of interest to the RAC. The Recreation RAC (RRAC) Working Group will review and make recommendations on U.S. Forest Service recreation fee program proposals. Members of the public are welcome to attend the Working Group and Business meetings. A public comment period is scheduled on the day of the Business meeting from 11:15 a.m. to 11:45 a.m. during the RRAC Session for any interested members of the public who wish to address the Council on BLM or Forest Service recreation fee programs, and again from 1:30 p.m. to 2 p.m. for any interested members of the public who wish to address the Council on BLM programs and business. Depending on the number of persons wishing to speak and time available, the time for individual comments may be limited. Written comments may also be submitted during the meeting for the RAC's consideration. Final meeting agendas will be available two weeks prior to the meetings and posted on the BLM Web site at: *http://www.blm.gov/az/st/en/res/rac.html*. Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the RAC Coordinator listed above no later than two weeks before the start of the meeting. Under the Federal Lands Recreation Enhancement Act, the RAC has been designated as the RRAC and has the authority to review all BLM and Forest Service recreation fee proposals in Arizona. The RRAC will review recreation fee program proposals at this meeting.

**June E. Shoemaker,**

*Acting Arizona State Director.*

[FR Doc. 2013–31386 Filed 12–31–13; 8:45 am]

BILLING CODE 4310–32–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1143 (Review)]**

### Small Diameter Graphite Electrodes From China; Institution of a Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on small diameter graphite electrodes from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is February 3, 2014. Comments on the adequacy of responses may be filed with the Commission by March 17, 2014. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–303, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.* On February 26, 2009, the Department of Commerce issued an antidumping duty order on imports of small diameter graphite electrodes from China (74 FR 8775). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

*Definitions.* The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined the *Domestic Like Product* as all small diameter graphite electrodes coextensive with the scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as all U.S. producers of small diameter graphite electrodes.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is February 26, 2009.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the review and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.* Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.* Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.* Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 3, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is March 17, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

*Inability to provide requested information.* Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a

complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

*Information To Be Provided in Response to this Notice of Institution:* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in metric tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in metric tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in metric tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into

production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: December 20, 2013.

By order of the Commission.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013–30798 Filed 12–31–13; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–394–A and 399–A (Third Review)]**

## Ball Bearings and Parts Thereof From Japan and the United Kingdom; Institution of Five-year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on ball bearings and parts thereof from Japan and the United Kingdom would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is February 3, 2014. Comments on the adequacy of responses may be filed with the Commission by March 17, 2014. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** Effective January 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On May 15, 1989, the Department of Commerce issued antidumping duty orders on imports of ball bearings and parts thereof from Japan and the United Kingdom (54 FR 20904, 54 FR 20910). The orders were continued on July 11, 2000 (65 FR 42665). On June 1, 2005, the Commission instituted second five-year reviews of the orders (70 FR 31531). The Commission's affirmative determinations in the second reviews (*see* 71 FR 51850) were remanded by the Court of International Trade. On the fourth remand, the Commission reached negative determinations under protest. The CIT affirmed, and on July 16, 2011, Commerce revoked the orders (76 FR 41761). On May 16, 2013, the Federal Circuit reversed the CIT's judgment on appeal and ordered that the Commission's affirmative determinations be reinstated. The CIT reinstated the affirmative determinations of the orders on November 18, 2013. Commerce consequently reinstated the orders effective November 29, 2013, and further indicated that it would initiate sunset reviews effective January 2, 2014 (78 FR 76104). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Japan and the United Kingdom.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, first full five-year review determinations, and second full five-year review determinations, the Commission defined the *Domestic Like Product* as ball bearings and parts thereof, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, first full five-year review determinations, and second full five-year review determinations, the Commission defined the *Domestic Industry* to encompass all domestic producers of ball bearings and parts thereof.

(5) The *Orders Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Orders Date* is May 15, 1989.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the reviews and public service list.*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–304, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the same particular matter as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 3, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is March 17, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the reviews.

*Information To Be Provided in Response to This Notice of Institution:* As used below, the term firm includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Countries* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Orders Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's

operations on that product during calendar year 2013, except as noted (report quantity data in number of bearings and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's (s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Countries,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in number of bearings and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Countries* accounted for by your firm's(s) imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Countries;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Countries.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Countries,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in number of bearings and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Countries* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Countries* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Countries* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Countries* since the *Orders Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Countries,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: December 20, 2013.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013–30962 Filed 12–31–13; 8:45 am]

BILLING CODE 7020–02–P

## 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 Civil Procedure.

**ACTION:** Notice of Public Hearing.

**SUMMARY:** On February 7, 2014, the Advisory Committee on Rules of Civil Procedure will hold a one-day public hearing on the proposed amendments to Civil Rules 1, 4, 6, 16, 26, 30, 31, 33, 34, 36, 37, 55, 84, and Appendix of Forms.

**DATES:** February 7, 2014.

*Time:* 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** Grand Hyatt DFW, 2337 S. International Parkway, DFW Airport, Texas 75261.

**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: December 27, 2013.

**Jonathan C. Rose,**

*Secretary and Chief Rules Officer.*

[FR Doc. 2013–31422 Filed 12–31–13; 8:45 am]

BILLING CODE 2210–55–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Importer of Controlled Substances; Notice of Application; Hospira

Pursuant to 21 CFR 1301.34(a), this is notice that on September 25, 2013, Hospira, 1776 North Centennial Drive, McPherson, Kansas 67460–1247, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of Remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import Remifentanil for use in dosage form manufacturing.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43, and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODW), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than February 3, 2014.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic class of any controlled substance in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: December 16, 2013.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2013–31364 Filed 12–31–13; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application; American Radiolabeled Chemicals, Inc.

Pursuant to 21 CFR 1301.33(a), this is notice that on October 24, 2013, American Radiolabeled Chemicals, Inc., 101 Arc Drive, St. Louis, Missouri 63146, made application by written correspondence to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Methadone (9250), a basic class of controlled substance in schedule II.

The company plans to manufacture small quantities of the listed controlled substance as radiolabeled compounds for biochemical research.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODW), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than March 3, 2014.

Dated: December 16, 2013.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2013–31363 Filed 12–31–13; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Registration; Boehringer Ingelheim Chemicals, Inc.; Correction

In **Federal Register** (FR DOC) 2013–25096 on page 64019, in the issue of Friday, October 25, 2013, make the following corrections:

On page 64019, in the first column, in the table, the first cell inadvertently omitted basic class of controlled substance Amphetamine (1100), and the second column, in the table, the last cells should read ''II''.

Dated: December 16, 2013.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2013–31362 Filed 12–31–13; 8:45 am]

BILLING CODE 4410–09–P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

**[NARA–2014–013]**

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Requests for copies must be received in writing on or before February 3, 2014. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepares appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

**ADDRESSES:** You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

*Mail:* NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

*Email: request.schedule@nara.gov.*

*FAX:* 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

**FOR FURTHER INFORMATION CONTACT:** Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

**SUPPLEMENTARY INFORMATION:** Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e)).

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records.

Further information about the disposition process is available on request.

**Schedules Pending**

1. Department of the Army, Agency-wide (N1–AU–11–26, 1 item, 1 temporary item). Master files of an electronic information system used to manage maintenance and supply activity on equipment throughout its life cycle.

2. Department of the Army, Agency-wide (N1–AU–11–27, 1 item, 1 temporary item). Master files of an electronic information system used to track movement requirements for unit property and equipment.

3. Department of Defense, Office of the Secretary of Defense (DAA–0330–2013–0009, 1 item, 1 temporary item). Master files of an electronic information system that supports electronic authentication for persons requesting access to DoD installations.

4. Department of Health and Human Services, Office of the Secretary (DAA–0468–2013–0008, 8 items, 4 temporary items). Routine correspondence, working files, and supporting files of the Office of the Inspector General. Proposed for permanent retention are briefing books, significant correspondence, and reports.

5. Department of Health and Human Services, Centers for Medicare & Medicaid Services (DAA–0440–2013–0009, 1 item, 1 temporary item). Records related to contract monitoring and evaluation.

6. Department of Housing and Urban Development, Agency-wide (DAA–0207–2013–0001, 1 item, 1 temporary item). Records related to condominium certifications used to facilitate mortgage insurance applications.

7. Department of Justice, United States Marshals Service (DAA–0527–2013–0012, 1 item, 1 temporary item). Records of the Judicial Security Division consisting of routine requests for funds and resources for special assignments.

8. Department of Justice, United States Marshals Service (DAA–0527–2013–0025, 3 items, 3 temporary items). Records include application materials and related correspondence of candidates for United States Marshal.

9. Department of State, Bureau of Public Affairs (DAA–0059–2013–0008, 1 item, 1 temporary item). Records of the Rapid Response Unit including research material and daily reports.

10. Department of State, Bureau of Public Affairs (DAA–0059–2014–0005, 2 items, 1 temporary item). Records of the Office of the Historian including background and research material used by the oral history program. Proposed for permanent retention are oral histories, legal releases, and deed of gift forms.

11. Department of Veterans Affairs, Office of Inspector General (DAA–0015–2013–0004, 12 items, 8 temporary items). Hotline records, congressional inquiries, investigative case files, and working papers. Proposed for permanent retention are executive correspondence, project oversight reports, joint reviews, strategic plans, and semi-annual reports to Congress.

12. Administrative Office of the United States Courts, Administrative Office (DAA–0116–2013–0001, 13 items, 11 temporary items). Administrative records relating to routine audits, surveys, and management reviews. Proposed for permanent retention are records relating to strategic plans and significant management reviews.

13. Administrative Office of the United States Courts, United States District Courts (DAA–0021–2013–0003, 2 items, 1 temporary item). Records relating to complaints of judicial misconduct or disability. Proposed for permanent retention are final orders on conduct or disability.

14. Advisory Council on Historic Preservation, Agency-wide (DAA–0536–2013–0007 (69 items, 39 temporary items). Comprehensive schedule covering training files (except for an evidential sample), non-winning nomination files for awards, and other non-substantive program records. Proposed for permanent retention are Council meeting files, records of the Executive Director, National Historic Preservation Act Section 106 case records, and other substantive records relating to agency policies, programs, and products.

**Paul M. Wester, Jr.,**

*Chief Records Officer for the U.S. Government.*

[FR Doc. 2013–31176 Filed 12–31–13; 8:45 am]

**BILLING CODE 7515–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. R2014–4; Order No. 1928]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning a contract with Hongkong Post for the delivery of various inbound small packets with delivery scanning. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* January 10, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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### I. Introduction

On December 24, 2013, the Postal Service filed notice, pursuant to 39 CFR 3010.40 *et seq.,* announcing that it has entered into a bilateral agreement (Agreement) with Hongkong Post, along with a Type 2 rate adjustment.[1] It asks that the Commission include the Agreement within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators I (MC2010–35) product on grounds of functional equivalence.

### II. Contents of Filing

In addition to the Notice, the Postal Service filed an application for non-public treatment of materials filed under seal (Attachment 1); a redacted copy of the Hongkong Post Agreement (Attachment 2), and a redacted Excel file with supporting financial documentation. Notice at 1–2. The Postal Service also filed unredacted copies of the Agreement and the supporting financial documentation under seal. *Id.* at 2.

The Agreement is the successor agreement to one previously found to be functionally equivalent to the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators I (MC2010–35).[2] Notice at 1. The Postal Service identifies Hongkong Post, the postal operator for Hong Kong, and the Postal Service as the parties to the Agreement. *Id.* at 3.

The Postal Service states that the Agreement includes negotiated pricing for various inbound small packets with delivery scanning. *Id.* It asserts that the Agreement will not only improve financial performance over default Universal Postal Union (UPU) rates, but will also continue to improve operational performance. *Id.*

The Postal Service identifies March 1, 2014 as the intended effective date; states that its Notice provides the requisite advance notice; identifies a Postal Service official as a contact person; provides financial data and information in the unredacted workpapers filed under seal; describes expected operational improvements; and addresses why the Agreement will not result in unreasonable harm to the marketplace. *Id.* at 2–5. The intended expiration date is March 1, 2015, unless terminated sooner with at least 30 days' written notice by either party. Notice, Attachment 2 at 6; see also *id.* at 2.

*Data collection and performance reporting proposals.* The Postal Service proposes that no special data collection plan be created for the Agreement because it intends to report information on the Agreement through the Annual Compliance Report. Notice at 5. With respect to performance measurement, the Postal Service asks that it be excepted from separate reporting under 39 CFR 3055.3(a)(3) based on Order No. 996.[3] Notice at 5–6.

*Statutory criteria.* The Postal Service states that under 39 U.S.C. 3622(c)(10), the criteria for Commission review are whether the Agreement (1) improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. *Id.* at 6. It states that it addresses the first two criteria in its Notice and views the third criterion as inapplicable, given Hongkong Post's status as the designated operator for letter post packets originating in Hong Kong. *Id.* at 4, 6.

*Functional equivalence.* The Postal Service notes that in Order No. 1864, the Commission requested that it put forth a proposal for identification of the appropriate baseline for comparison of agreements for functional equivalency purposes.[4] Notice at 6–7. The Postal Service states that the Agreement is functionally equivalent to the previously filed and included predecessor agreement with Hongkong Post, which was included within Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 product grouping. *Id.* at 8. It also states that the terms of the Agreement fit within the proposed Mail Classification Schedule (MCS) language for Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 and that the Agreement and its predecessor conform to a common description and share a common market. *Id.* at 7. The Postal Service asserts that in comparison with its predecessor, cost characteristics and the financial models used to project costs and revenues are similar. *Id.* at 7–8. It states that while minor differences exist between the Agreement and its predecessor, none of the differences affect the cost or market characteristics nor do they detract from the conclusion that the Agreement is functionally equivalent to its predecessor agreement. *Id.* at 8–9.

### III. Commission Action

The Commission, in conformance with 39 CFR 3010.44, establishes Docket No. R2014–4 to consider matters raised by the Notice. The Commission invites interested persons to submit comments on whether the Notice is consistent with the policies of 39 U.S.C. 3622 and 39 CFR part 3010.40. Comments are due no later than January 10, 2014.

The public portions of the Postal Service's filings have been posted on the

[1] United States Postal Service Notice of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, December 24, 2013 (collectively, Notice).

[2] See Docket No. R2013–3, Order No. 1597, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Hongkong Post), December 28, 2012.

[3] In Order No. 996, the Commission granted the Postal Service's request for a standing exemption to performance reporting requirements for all contracts that fall within the parameters of the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operations 1 product. See Docket No. R2012–2, Order No. 996, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 23, 2011, at 7.

[4] Docket No. R2013–9, Order No. 1864, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Korea Post), October 30, 2013, at 7–8. In response, the Postal Service filed a motion for partial reconsideration. See Docket No. R2013–9, Motion for Partial Reconsideration of Order No. 1864, November 6, 2013.

Commission's Web site. They can be accessed at *http://www.prc.gov.* Information on how to obtain access to non-public material is available at 39 CFR part 3007.

The Commission appoints Kenneth R. Moeller to serve as Public Representative in this proceeding.

**IV. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket No. R2014–4 to consider matters raised by the Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, filed December 24, 2013.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due no later than January 10, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2013–31360 Filed 12–31–13; 8:45 am]

**BILLING CODE 7710–FW–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71186; File No. SR–NYSEArca–2013–138]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of iShares Enhanced International Large-Cap ETF and iShares Enhanced International Small-Cap ETF Under NYSE Arca Equities Rule 8.600

December 26, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 13, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): iShares Enhanced International Large-Cap ETF and iShares Enhanced International Small-Cap ETF. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares [4]: iShares Enhanced International Large-Cap ETF (''Large-Cap Fund'') and iShares Enhanced International Small-Cap ETF (''Small-Cap Fund'', each a ''Fund'' and, collectively, the ''Funds''). The Shares of the Funds will be offered by iShares U.S. ETF Trust (the ''Trust'') [sic] [5] The Trust is registered with the Commission as an open-end management investment company.[6] BlackRock Fund Advisors (''BFA'') will serve as the investment adviser to the Funds (the ''Adviser''). BFA is an indirect wholly-owned subsidiary of BlackRock, Inc. BlackRock Investments, LLC (the ''Distributor'') will be the principal underwriter and distributor of the Funds' Shares. State Street Bank and Trust Company (the ''Administrator'', ''Custodian'' or ''Transfer Agent'') will serve as administrator, custodian and transfer agent for the Funds.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[7] Commentary

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing and trading of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing and trading of Cambria Global Tactical ETF).

[6] The Trust is registered under the 1940 Act. *See* Post-Effective Amendment No. 22 (with respect to the Large-Cap Fund, the ''Large-Cap Registration Statement'') and Post-Effective Amendment No. 23 (with respect to the Small-Cap Fund, the ''Small-Cap Registration Statement'') to the Trust's registration statement filed with the Commission on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act, each dated October 4, 2013 (File Nos. 333–179904 and 811–22649) (collectively, the ''Registration Statements''). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statements. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29571 (File No. 812–13601) (''Exemptive Order'').

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''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

.06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer but is affiliated with multiple broker-dealers and has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolio.

In the event (a) the Adviser or any sub-adviser registers as a broker-dealer 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, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

iShares Enhanced International Large-Cap Fund

According to the Large-Cap Registration Statement, the Fund will seek long-term capital appreciation. The Fund will seek to achieve its investment objective by investing, under normal circumstances [8], at least 80% of its net assets in equity securities of international large-capitalization issuers. The Fund will seek to maintain strategic exposure to international large-capitalization stocks with targeted investment characteristics. BFA will utilize a proprietary investment process to assemble an investment portfolio from a defined group of international large-capitalization stocks based on certain quantitative investment characteristics.

The Fund's proprietary investment process will begin with securities representing a defined investable universe of stocks of international large-capitalization issuers. The universe will then be subjected to rules-based screens designed to exclude securities with very low trading volume or very low prices. The stocks will then be scored based on quantitative metrics, including, but not limited to, cash earnings, earnings variability, leverage, price-to-book ratio and market capitalization. BFA will assemble a portfolio emphasizing those stocks with higher cash earnings, lower earnings variability, lower leverage, lower price-to-book ratio, and smaller market capitalization relative to other stocks in the investable universe. BFA will seek to ensure that the Fund avoids unnecessary turnover and minimizes sources of risk by taking into account volatilities of certain factors and by placing constraints on the weighting of sectors, industries, and issuers.

The Fund will purchase publicly-traded exchange-listed common stocks of non-U.S. issuers. The Fund's investment in such stocks may be in the form of American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs'') and European Depositary Receipts (''EDRs'') (collectively, ''Depositary Receipts'').[9] With respect to its investments in exchange-listed common stocks and Depositary Receipts of non-U.S. issuers, the Fund will invest at least 90% of its assets invested in such securities in exchange-listed common stocks and Depositary Receipts 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.[10]

The Fund will generally invest in sponsored Depositary Receipts that are listed on ISG member exchanges and that BFA deems as liquid at time of purchase. In certain limited circumstances, the Fund may invest in unlisted or unsponsored Depositary Receipts, Depositary Receipts listed on non-ISG member exchanges, or Depositary Receipts that BFA deems illiquid at the time of purchase or for which pricing information is not readily available.[11] The issuers of unlisted or unsponsored Depositary Receipts are not obligated to disclose material information in the United States. Therefore, there may be less information available regarding such issuers and there may be no correlation between available information and the market value of the Depositary Receipts.

iShares Enhanced International Small-Cap Fund

According to the Small-Cap Registration Statement, the Fund will seek long-term capital appreciation. The Fund will seek to achieve its investment objective by investing, under normal circumstances,[12] at least 80% of its net assets in equity securities of international small-capitalization issuers. The Fund will seek to maintain strategic exposure to international small-capitalization stocks with targeted investment characteristics. BFA will utilize a proprietary investment process to assemble an investment portfolio from a defined group of international small-capitalization stocks based on certain quantitative investment characteristics.

The Fund's proprietary investment process will begin with securities representing a defined investable universe of stocks of international small-capitalization issuers. The universe will then be subjected to rules-based screens designed to exclude securities with very low trading volume or very low prices. The stocks will then be scored based on quantitative metrics, including, but not limited to, cash earnings, earnings variability, leverage, price-to-book ratio and market capitalization. BFA will assemble a

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.

[8] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity 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 or labor disruption or any similar intervening circumstance.

[9] Depositary Receipts are receipts, typically issued by a bank or trust issuer, which evidence ownership of underlying securities issued by a non-U.S. issuer. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a non-U.S. issuer. For other forms of Depositary Receipts, the depository may be a non-U.S. or a U.S. entity, and the underlying securities may be issued by a non-U.S. or a U.S. issuer. Depositary Receipts are not necessarily denominated in the same currency as their underlying securities. Generally, ADRs, issued in registered form, are designed for use in the U.S. securities markets, and EDRs, issued in bearer form, are designed for use in European securities markets. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world.

[10] *See* note 32 and accompanying text, *infra.*

[11] Not more than 10% of the net assets of each Fund, in the aggregate, will be invested in (1) unlisted or unsponsored Depositary Receipts; (2) Depositary Receipts not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (3) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

[12] *See* note 8, *supra.*

portfolio emphasizing those stocks with higher cash earnings, lower earnings variability, lower leverage, lower price-to-book ratio, and smaller market capitalization relative to other stocks in the investable universe. BFA will seek to ensure that the Fund avoids unnecessary turnover and minimizes sources of risk by taking into account volatilities of certain factors and by placing constraints on the weighting of sectors, industries, and issuers.

The Fund will purchase publicly-traded exchange-listed common stocks of non-U.S. issuers. To the extent the Fund invests in stocks of non-U.S. issuers, the Fund's investment in such stocks may be in the form of Depositary Receipts.[13] With respect to its investments in exchange-listed common stocks and Depositary Receipts of non-U.S. issuers, the Fund will invest at least 90% of its assets invested in such securities in exchange-listed common stocks and Depositary Receipts that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.[14]

The Fund will generally invest in sponsored Depositary Receipts that are listed on ISG member exchanges and that BFA deems as liquid at time of purchase. In certain limited circumstances, the Fund may invest in unlisted or unsponsored Depositary Receipts, Depositary Receipts listed on non-ISG member exchanges, or Depositary Receipts that BFA deems illiquid at the time of purchase or for which pricing information is not readily available.[15] The issuers of unlisted or unsponsored Depositary Receipts are not obligated to disclose material information in the United States. Therefore, there may be less information available regarding such issuers and there may be no correlation between available information and the market value of the Depositary Receipts.

Other Investments

While each Fund, under normal circumstances, will invest at least 80% of its net assets in its investments as described above, a Fund may directly invest in certain other investments, as described below. A Fund may temporarily depart from its normal investment process,[16] provided that the alternative, in the opinion of BFA, is consistent with a Fund's investment objective and is in the best interest of a Fund. However, BFA will not seek to actively time market movements.

A Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance.[17] Each 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 a Fund's net assets are held in illiquid securities. Illiquid securities 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.[18]

Each Fund may invest in repurchase and reverse repurchase agreements. A repurchase agreement is an instrument under which the purchaser (*i.e.,* a Fund) acquires the security and the seller agrees, at the time of the sale, to repurchase the security at a mutually agreed upon time and price, thereby determining the yield during the purchaser's holding period. Reverse repurchase agreements involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing.

Each Fund may invest in other short-term instruments, including money market instruments, on an ongoing basis to provide liquidity or for other reasons. Money market instruments are generally short-term investments that may include but are not limited to: (i) Shares of money market funds (including those advised by BFA or otherwise affiliated with BFA); (ii) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit (''CDs''), bankers' acceptances, fixed-time deposits and other obligations of U.S. and non-U.S. banks (including non-U.S. branches) and similar institutions; (iv) commercial paper rated, at the date of purchase, ''Prime-1'' by Moody's Investors Service, Inc., ''F–1'' by Fitch Inc., or ''A–1'' by Standard & Poor's (''S&P''), or if unrated, of comparable quality as determined by BFA; (v) non-convertible corporate debt securities (*e.g.,* bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a–7 under the 1940 Act; and (vi) short-term U.S. dollar-denominated obligations of non-U.S. banks (including U.S. branches) that, in the opinion of BFA, are of comparable quality to obligations of U.S. banks which may be purchased by a Fund. Any of these instruments may be purchased on a current or forward-settled basis. Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates.

Each Fund may enter into currency forward contracts for hedging and trade settlement purposes.[19] Each Fund may invest in total return swaps on single securities in limited circumstances, including as a means to gain exposure to securities that trade on exchanges that are not members of ISG. The credit risk of counterparties to swaps and forward contracts will be assessed and monitored in accordance with policies and procedures adopted by the Adviser and such contracts will be collateralized.[20] Each Fund also may

[13] *See* note 9, *supra.*

[14] *See* note 32 and accompanying text, *infra.*

[15] *See* note 11, *supra.*

[16] Circumstances under which a Fund may temporarily depart from their normal investment process include, but are not limited to, extreme volatility or trading halts in the equity 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 or labor disruption or any similar intervening circumstance.

[17] 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).

[18] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[19] A forward currency contract is an obligation to purchase or sell a specific currency at a future date, which may be any fixed number of days from the date of the contract agreed upon by the parties, at a price set at the time of the contract.

[20] The Adviser has implemented policies and procedures to assess the creditworthiness of prospective and existing derivatives counterparties. Derivatives transactions are conducted only with

invest in futures contracts based on currencies, stock indexes and single stocks. The Funds will not invest in options.

Each Fund may invest a small portion of its assets in exchange-listed tracking stocks. A tracking stock is a separate class of common stock whose value is linked to a specific business unit or operating division within a larger company and is designed to ''track'' the performance of such business unit or division. The tracking stock may pay dividends to shareholders independent of the parent company. The parent company, rather than the business unit or division, generally is the issuer of tracking stock. However, holders of the tracking stock may not have the same rights as holders of the company's common stock.

Each Fund will be classified as a ''diversified'' investment company under the 1940 Act.[21]

Each Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of a Fund's investments in that industry would equal or exceed 25% of the current value of a Fund's total assets, provided that this restriction does not limit a Fund's: (i) Investments in securities of other investment companies, (ii) investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (iii) investments in repurchase agreements collateralized by U.S. government securities.[22]

Each Fund intends to qualify for and to elect treatment as a separate regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code.[23]

Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

Creation and Redemption of Shares

According to the Registration Statements, each Fund will issue and redeem Shares on a continuous basis at net asset value (''NAV'') only in large specified numbers of Shares called a ''Creation Unit.''

The consideration for purchase of Creation Units of each Fund generally will consist of the in-kind deposit of a designated portfolio of securities (including any portion of such securities for which cash may be substituted) (*i.e.,* the Deposit Securities) and the Cash Component computed as described below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which will be applicable (subject to possible amendment or correction) to creation requests received in proper form. The Fund Deposit represents the minimum initial and subsequent investment amount for a Creation Unit of a Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which is an amount equal to the market value of the Deposit Securities, and serve to compensate for any differences between the NAV per Creation Unit and the Deposit Amount.

BFA will make available through the National Securities Clearing Corporation (''NSCC'') on each business day, prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information as of the end of the previous business day) for the applicable Fund. Such Fund Deposit will be applicable, subject to any adjustments as described below, in order to effect purchases of Creation Units of Shares of a Fund until such time as the next-announced Fund Deposit is made available.

The identity and number or par value of the Deposit Securities may change pursuant to changes in the composition of a Fund's portfolio and as rebalancing adjustments and corporate action events occur from time to time. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the component securities constituting a Fund's portfolio.

The portfolio of securities required for purchase of a Creation Unit may not be identical to the portfolio of securities a Fund will deliver upon redemption of Fund Shares. The Deposit Securities and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond *pro rata* to the securities held by such Fund.

Each Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the Depository Trust Company (''DTC''). Each Fund also reserves the right to permit or require a ''cash in lieu'' amount in certain other circumstances, including circumstances in which (i) the delivery of the Deposit Security by the authorized participant would be restricted under applicable securities laws or (ii) the delivery of the Deposit Security to the authorized participant would result in the disposition of the Deposit Security by the authorized participant becoming restricted under applicable securities laws, or in certain other situations.

Creation Units may be purchased only by or through a DTC participant that has entered into an authorized participant agreement (as described in the Registration Statements) with the Distributor. Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor in proper form no later than the closing time of the regular trading session of the Exchange (normally 4:00 p.m., Eastern time) in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of a Fund as next determined on such date after receipt of the order in proper form. Orders requesting substitution of a ''cash in lieu'' amount generally must be received by the Distributor no later than 2:00 p.m., Eastern time. On days when the Exchange or other markets close earlier than normal, a Fund may require orders to create Creation Units to be placed earlier in the day. A standard creation transaction fee will be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of a Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. BFA will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of securities (including any portion of such securities for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). Fund Securities received on redemption may not be identical to Deposit

approved counterparties with whom appropriate documentation is executed. Exposure to counterparties is independently and actively monitored. Where appropriate, collateral is posted and actively managed to reduce counterparty credit exposure.

[21] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[22] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[23] 26 U.S.C. 851 *et seq.*

Securities that are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for a Fund, the redemption proceeds for a Creation Unit generally will consist of a specified amount of cash, Fund Securities, plus additional cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after the receipt of a request in proper form, and the value of the specified amount of cash and Fund Securities, less a redemption transaction fee. Each Fund currently will redeem Shares for Fund Securities, but each Fund reserves the right to utilize a ''cash'' option for redemption of Shares.

A standard redemption transaction fee will be imposed to offset transfer and other transaction costs that may be incurred by a Fund.

Redemption requests for Creation Units of a Fund must be submitted to the Distributor by or through an authorized participant no later than 4:00 p.m. Eastern time on any business day, in order to receive that day's NAV. The authorized participant must transmit the request for redemption in the form required by a Fund to the Distributor in accordance with procedures set forth in the authorized participant agreement.

Determination of Net Asset Value

According to the Registration Statements, the NAV of each Fund normally will be determined once each business day, generally as of the regularly scheduled close of business of the New York Stock Exchange (''NYSE'') (normally 4:00 p.m., Eastern time) on each day that the NYSE is open for trading, based on prices at the time of closing provided that (a) any Fund assets or liabilities denominated in currencies other than the U.S. dollar will be translated into U.S. dollars at the prevailing market rates on the date of valuation as quoted by one or more data service providers, and (b) U.S. fixed-income assets may be valued as of the announced closing time for trading in fixed-income assets in a particular market or exchange. The NAV per Share of each Fund will be calculated by dividing the value of the net assets of each Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of outstanding Shares of a Fund, generally rounded to the nearest cent.

The value of the securities and other assets held by each Fund, and its liabilities, will be determined pursuant to valuation policies and procedures approved by the Trust's Board of Directors/Trustees (''Board''). Each Fund's assets and liabilities will be valued primarily on the basis of market quotations.

Equity investments, including common stocks, tracking stocks, and sponsored and unsponsored Depositary Receipts, and investments in futures, including currency, stock index and single stock futures, will be valued at market value, which is generally determined using the last reported official closing price or last trading price on the exchange or other market on which the security or futures contract is primarily traded at the time of valuation. Swaps and currency forward contracts generally will be valued based on quotations from market makers or by a pricing service in accordance with valuation procedures approved by the Board. Repurchase agreements and reverse repurchase agreements are generally valued at par. Other short-term instruments will generally be valued at the last available bid price received from independent pricing services. In determining the value of a fixed income investment, pricing services may use certain information with respect to transactions in such investments, quotations from dealers, pricing matrixes, market transactions in comparable investments, various relationships observed in the market between investments, and calculated yield measures. In certain circumstances, short-term instruments may be valued on the basis of amortized cost.

Generally, trading in non-U.S. securities, U.S. government securities, money market instruments, certain fixed-income securities and certain derivatives will be substantially completed each day at various times prior to the close of business on the NYSE. The values of such securities used in computing the NAV of a Fund will be determined as of such times.

When market quotations are not readily available or are believed by BFA to be unreliable, a Fund's investments will be valued at fair value. Fair value determinations are made by BFA in accordance with policies and procedures approved by the Trust's Board and in accordance with the 1940 Act. BFA may conclude that a market quotation is not readily available or is unreliable if a security or other asset or liability does not have a price source due to its lack of liquidity, if a market quotation differs significantly from recent price quotations or otherwise no longer appears to reflect fair value, where the security or other asset or liability is thinly traded, or where there is a significant event subsequent to the most recent market quotation. A ''significant event'' is an event that, in the judgment of BFA, is likely to cause a material change to the closing market price of the asset or liability held by a Fund. Non-U.S. securities whose values are affected by volatility that occurs in U.S. markets on a trading day after the close of foreign securities markets may be fair valued.[24]

Availability of Information

The Funds' Web site (*www.ishares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for a Fund that may be downloaded. The Funds' Web site will include additional quantitative information updated on a daily basis, including, for the Funds, (1) the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[25] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for such Fund's calculation of NAV at the end of the business day.[26]

On a daily basis, each Fund will disclose for each portfolio security and other financial instrument of each Fund the following information on the Funds' Web site: Ticker symbol (if applicable), name of security and financial instrument, number of shares and dollar value of securities and financial instruments held in the portfolio, and

[24] According to the Registration Statements, fair value represents a good faith approximation of the value of an asset or liability. The fair value of an asset or liability held by a Fund is the amount a Fund might reasonably expect to receive from the current sale of that asset or the cost to extinguish that liability in an arm's-length transaction. Valuing a Fund's investments using fair value pricing will result in prices that may differ from current market valuations and that may not be the price at which those investments could have been sold during the period in which the particular fair values were used.

[25] The Bid/Ask Price of each Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[26] Under accounting procedures followed by the Funds, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for each Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via NSCC. The basket represents one Creation Unit of a Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), each Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* 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. Quotation and last sale information for the Shares of each Fund will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Indicative Optimized Portfolio Value (''IOPV''),[27] which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[28] The dissemination of the IOPV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and to provide a close estimate of that value throughout the trading day. The intra-day, closing and settlement prices of equity securities, including common stocks, tracking stocks, and sponsored and unsponsored Depositary Receipts, will be readily available from the securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Price information regarding currency, stock index and single stock futures is available from the exchange on which such futures trade as well as from major market data vendors. Price information regarding unsponsored Depositary Receipts; swaps; currency forward contracts; and short-term instruments will be available from major market data vendors.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statements. All terms relating to the Funds that are referred to, but not defined in, this proposed rule change are defined in the Registration Statements.

Trading Halts

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 Funds.[29] Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Trust will be in compliance with Rule 10A–3 [30] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share of each Fund will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing surveillance procedures administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[31] The Exchange 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.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding

[27] According to the Registration Statements, the IOPV will be based on the current value of the securities and/or cash required to be deposited in exchange for a Creation Unit using market data converted into U.S. dollars at the current currency rates. The IOPV price 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 IOPV and the market price may occur. The IOPV will not necessarily reflect the precise composition of the current portfolio of securities held by a Fund at a particular point in time or the best possible valuation of the current portfolio. Therefore, the IOPV should not be viewed as a ''real-time'' update of a Fund's NAV, which will be calculated only once a day. The quotations of certain Fund holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States.

[28] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IOPVs taken from CTA or other data feeds.

[29] *See* NYSE Arca Equities Rule 7.12.

[30] 17 CFR 240.10A–3.

[31] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

trading in the Shares of the Funds, as well as underlying equity securities (including exchange-listed Depositary Receipts and tracking stocks) and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares of the Funds as well as underlying equity securities and futures from such markets and other entities. The Exchange may obtain information regarding trading in the Shares of the Funds as well as underlying equity securities (including exchange-listed Depositary Receipts and tracking stocks) and futures from ISG member markets or markets with which the Exchange has in place a comprehensive surveillance sharing agreement.[32]

To the extent that a Fund invests in futures, not more than 10% of the weight of such futures contracts held by a Fund in the aggregate would consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

Not more than 10% of the net assets of each Fund, in the aggregate, will be invested in (1) unlisted or unsponsored Depositary Receipts; (2) Depositary Receipts not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (3) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (4) how information regarding the IOPV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that each Fund is subject to various fees and expenses described in the Registration Statements. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[33] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser has implemented a ''fire wall'' with respect to its affiliated broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolios. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares of the Funds, as well as underlying equity securities (including exchange-listed Depositary Receipts and tracking stocks) and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares of the Funds as well as underlying equity securities and futures from such markets and other entities. The Exchange may obtain information regarding trading in the Shares of the Funds as well as underlying equity securities (including exchange-listed Depositary Receipts and tracking stocks) and futures from ISG member markets or markets with which the Exchange has in place a comprehensive surveillance sharing agreement. The Funds will not invest in options. To the extent that a Fund invests in futures, not more than 10% of the weight of such futures contracts held by a Fund in the aggregate would consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Not more than 10% of the net assets of each Fund, in the aggregate, will be invested in (1) unlisted or unsponsored Depositary Receipts; (2) Depositary Receipts not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (3) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

The Adviser has implemented policies and procedures to assess the creditworthiness of prospective and existing derivatives counterparties. Derivatives transactions are conducted only with approved counterparties with whom appropriate documentation is executed. Exposure to counterparties is independently and actively monitored. Where appropriate, collateral is posted and actively managed to reduce counterparty credit exposure. A Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share of each Fund will be calculated daily and that the NAV and the Disclosed Portfolio for each Fund will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. Moreover, the IOPV will be widely disseminated by one or more major market data vendors at least every

[32] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for a Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[33] 15 U.S.C. 78f(b)(5).

15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Funds will disclose on their Web site the Disclosed Portfolio that will form the basis for a Fund's calculation of NAV at the end of the business day. 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, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Funds will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted. In addition, as noted above, investors will have ready access to information regarding a Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares of the Funds, as well as underlying equity securities (including exchange-listed Depositary Receipts and tracking stocks) and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares of the Funds as well as underlying equity securities and futures from such markets and other entities. The Exchange may obtain information regarding trading in the Shares of the Funds as well as underlying equity securities (including exchange-listed Depositary Receipts and tracking stocks) and futures from ISG member markets or markets with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding a Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares. The proposed rule change would benefit investors by providing them with additional choice of transparent and tradeable products.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of other actively-managed exchange-traded products that hold equity securities and will enhance competition among market participants, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days after publication (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–NYSEArca–2013–138 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–138. 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–NYSEArca–2013–138 and should be submitted on or before January 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

**Lynn Powalski,**

*Deputy Secretary.*

[FR Doc. 2013–31372 Filed 12–31–13; 8:45 am]

BILLING CODE 8011–01–P

[34] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71187; File No. SR–NASDAQ–2013–165]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify an Aspect of the Implementation of Rule 4626(b)(3)

December 26, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on December 24, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to modify an aspect of the implementation of Rule 4626(b)(3), as previously described in SR–NASDAQ–2013–152,[3] and to make a related amendment to the text of Rule 4626(b)(3)(E). The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

**Rule 4626. Limitation of Liability**

(a) No change.

(b) Nasdaq, subject to the express limits set forth below, may compensate users of the Nasdaq Market Center for losses directly resulting from the systems' actual failure to correctly process an order, Quote/Order, message, or other data, provided the Nasdaq Market Center has acknowledged receipt of the order, Quote/Order, message, or data.

(1)–(2) No change.

(3) Notwithstanding subsections (b)(1) and (2) above, for the aggregate of all claims alleged by all market participants related to errors in the Nasdaq Halt and Imbalance Cross Process in connection with the initial public offering of Facebook, Inc. (the ''Cross''), including any delay in delivery of confirmations of orders in Facebook, Inc. stock on May 18, 2012, the total amount of Nasdaq's payment shall not exceed $62 million. Eligibility of claims for payment shall be determined in accordance with the following procedures:

(A)–(D) No change.

(E) FINRA shall provide to the Nasdaq Board of Directors and the Board of Directors of The NASDAQ OMX Group, Inc. an analysis of the total value of eligible claims submitted under this subsection (b)(3). Nasdaq will thereafter file with the Securities and Exchange Commission a rule proposal setting forth the amount of eligible claims under the standards set forth in this Rule and the amount proposed to be paid to members by Nasdaq. In no event shall Nasdaq make any payments on claims pursuant to this subsection (b)(3) until the rule proposal setting forth the amount of eligible claims becomes effective [and final]. All payments shall be made in cash.

(F)–(H) No change.

(4)–(6) No change.

* * * * *

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 4626(b)(3) established a one-time, voluntary accommodation policy for claims arising from system difficulties that Nasdaq experienced during the initial public offering (''IPO'') of Facebook, Inc. (''Facebook'' or ''FB'') on May 18, 2012.[4] The rule describes the methodology for submission, evaluation, and payment of such claims. Among other things, Rule 4626(b)(3)(E) provides that ''Nasdaq will . . . file with the Securities and Exchange Commission a rule proposal setting forth the amount of eligible claims under the standards set forth in this Rule and the amount proposed to be paid to members by Nasdaq.'' On December 9, 2013, Nasdaq submitted SR–NASDAQ–2013–152 to satisfy this requirement.

In SR–NASDAQ–2013–152, Nasdaq described, among other things, the scope of Rule 4626(b)(3), the process used to evaluate claims, the results of that process, and the process for payment of claims. With regard to the latter aspect of the filing, Nasdaq stated that it would pay all valid claims in accordance with the payment instructions provided by the claimant, ''immediately upon the expiration of the 60-day time period during which [SR–NASDAQ–2013–152] is subject to suspension by the Commission.'' Moreover, Rule 4626(b)(3)(E) provides that ''[i]n no event shall Nasdaq make any payments on claims pursuant to this subsection (b)(3) until the rule proposal setting forth the amount of eligible claims becomes effective and *final*'' (emphasis added).

Nasdaq believes that it would be consistent with the protection of investors and the public interest to pay claimants sooner. Accordingly, Nasdaq is submitting this proposed rule change to modify this aspect of the implementation of Rule 4626(b)(3) by deleting the word ''final'' from Rule 4626(b)(3)(E). In order to implement this modification as quickly as possible, Nasdaq is requesting that the Commission waive the operative delay requirement provided for by Rule 19b–4(f)(6)(iii).[5] If such waiver is granted, Nasdaq intends to pay all valid claims as soon as practicable thereafter.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(5) of the Act [7] in particular, because the proposal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 71098 (December 17, 2013), 78 FR 77540 (December 23, 2013) (SR–NASDAQ–20134–152).

[4] *See* Securities Exchange Act Release Nos. 69216 (March 22, 2013), 78 FR 19040 (March 28, 2013) (SR–NASDAQ–2012–090) (order approving Nasdaq proposal to adopted Rule 4626(b)(3) (the ''Approval Order'')); 67507 (July 26, 2012), 77 FR 45706 (August 1, 2012) (SR–NASDAQ–2012–090) (proposal to adopt Rule 4626(b)(3)).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] 15 U.S.C. 78f(b) (setting forth the prerequisites for registration as a national securities exchange).

[7] 15 U.S.C. 78f(b)(5) (requiring that an exchange's rules 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not [be] designed to permit unfair

is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In the Approval Order, the Commission found that Rule 4626(b)(3) is consistent with Act because it ''sets forth objective and transparent processes to determine eligible claims and how such claims would be paid to Nasdaq members that elect to participate in the accommodation plan.'' The Commission further determined that providing compensation pursuant to the rule would be in the public interest and that the rule would encourage members to compensate their customers. Similarly, Nasdaq believes that this proposed rule change is consistent with the Act because it will allow Nasdaq to accomplish the approved objectives of the Rule 4626(b)(3) through final payment of eligible claims without further delay.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposed rule change does not relate to the provision of goods or services, nor does it impose regulatory restrictions on the ability of members to compete. Accordingly, the change does not affect competition in any respect.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes that if such waiver is granted, it intends to pay all valid claims as soon as practicable thereafter. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to pay claimants without undue delay. For this reason, the Commission designates the proposed rule change operative upon filing with the Commission.[11]

At any time within 60 days of the filing of such 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.

**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–NASDAQ–2013–165 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–165. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–165 and should be submitted on or before January 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Lynn M. Powalski,**

*Deputy Secretary.*

[FR Doc. 2013–31368 Filed 12–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this chapter matters not related to the purposes of this chapter or the administration of the exchange'').

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] *Id.*

[11] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71189; File No. SR–BOX–2013–60]**

## Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Short Term Options Program

December 26, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 20, 2013, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend interpretive material to Rule 5050 (Series of Options Contracts Open for Trading) and Rule 6090 (Terms of Index Options Contracts) to allow the Exchange to list five Short Term Option Series at one time, and to specify that new series of Short Term Option Series may be listed up to, and including on, the expiration date. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com*.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend IM–5050–6 to Rule 5050 (Series of Options Contracts Open for Trading) and IM–6090–2 to Rule 6090 (Terms of Index Options Contracts) to allow the Exchange to list five Short Term Option Series at one time, and to specify that new series of Short Term Option Series may be listed up to, and including on, the expiration date. This is a competitive filing that is based on a proposal recently submitted by the Chicago Board Options Exchange, Inc. (''CBOE'') and approved by the Commission.[3]

Currently the Exchange's Rules allow it to list options in the Short Term Option (''STO'' or ''weekly'') Program ''on each of the next five consecutive Fridays that are business days.''[4] The filing which gave the Exchange authority to list five STO expirations specifically states that ''the total number of consecutive expirations will be five, including any existing monthly or quarterly expirations.''[5] The Exchange is now proposing to amend its rules so that the next five STOs may be listed at one time, not including the monthly or quarterly options. The Exchange is also proposing to codify an existing practice by adding language stating that strikes may be listed up until and on the day of expiration.

As proposed, the Exchange will have the ability to list a total of five STO expirations and that count of five would not include monthly or quarterly option expirations. The Exchange notes that this proposal would restrict the five listed STOs to those closest to the STO opening date. For example, if a class of options has five STOs listed with expiration dates in July, the other two listed expiration dates may not be in December. The Exchange believes that allowing otherwise would undermine the purpose of the STO Program.

As examples of how this would work in practice, consider a situation in which a quarterly option expires week 1 and a monthly option expires week 3 from now, the proposal would allow the following expirations: Week 1 quarterly option, week 2 weekly option, week 3 monthly option, week 4 weekly option, week 5 weekly option, week 6 weekly option, and week 7 weekly option.[6] As another example, if a quarterly option expires week 3 and a monthly option expires week 5, the following expirations would be allowed: Week 1 weekly option, week 2 weekly option, week 3 quarterly option, week 4 weekly option, week 5 monthly option, week 6 weekly option, week 7 weekly option.

Next, the Exchange is proposing to add language to IM–5050–6(b)(4) and IM–6090–2(b)(4) to state that additional STO series may be added up to, and including on, the expiration date of the series.[7] Currently, Exchange rules state that the Exchange may open up to 20 initial series, and up to 10 additional series, for each option class that participates in the STO Program.[8] The Exchange's rules, however, are silent on when series may be added. In practice, however, the Exchange, along with the other exchanges, list additional series until the expiration day.[9] The Exchange believes that codifying this practice will clarify authority that is not currently explicitly stated in its rules to add series up until the day of expiration. Given the short lifespan of STOs, the Exchange believes that the ability to list new series of options intraday is appropriate.

The Exchange notes that the STO Program has been very well-received by market participants, in particular by retail investors. The Exchange believes that the current proposed revision to the STO Program will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes and series. In addition, the proposed changes will codify an existing practice in the Exchange's rules.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71005 (December 6, 2013), 78 FR 75395 (December 11, 2013) (SR–CBOE–2013–096) (Order Granting Approval of Proposed Rule Change).

[4] *See* IM–5050–6 to Rule 5050 and IM–6090–2 to Rule 6090.

[5] *See* Securities Exchange Act Release No. 68361 (December 5, 2012), 77 FR 73729 (December 11, 2012) (Notice of Filing and Immediate Effectiveness of SR–BOX–2012–020 which was a rule filing based on approved filings submitted by NYSE Arca, Inc. and NYSE MKT, LLC).

[6] The proposal would not allow, for example, for nothing to be listed week 7 but week 8 a weekly option.

[7] The Exchange is also proposing to add language stating that the proposed provisions in IM–5050–6 and IM–6090–2 will not contradict current provisions in the Exchange's Rules. More specifically, the proposed provisions would not contradict Rules 5050(c) and 6090(c)(2) respectively. The Exchange believes this addition will eliminate any confusion about when additional series may be added in the STO Program in comparison to other Exchange listing programs.

[8] *See* IM–5050–6(b)(3) and (4) to Rule 5050, and IM–6090–2(b)(3) and (4) to Rule 6090.

[9] The Exchange notes that the Options Clearing Corporation (''OCC'') has the ability to accommodate series in the STO Program added intraday.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

and a national market system, and, in general to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that expanding the STO Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions. The Exchange also believes that expanding the STO Program will provide the investing public and other market participants with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the STO Program. The Exchange believes that its Participants will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal is pro-competitive. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by the CBOE that was recently approved by the Commission.[13] The Exchange believes that the proposed rule change is necessary to permit fair competition among the options exchanges with respect to STO Programs. Moreover, the Exchange believes this proposed rule change will benefit investors by providing additional methods to trade options on liquid securities, and by providing greater ability to mitigate risk in managing large portfolios. Specifically, the Exchange believes that investors would benefit from the introduction and availability of additional series for investment, and as an additional tool for hedging risk in highly liquid securities. For all the reasons stated, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will promote fair competition among the exchanges by allowing the Exchange to list additional STO expirations in the same manner as the CBOE, and by clarifying that, like the CBOE, the Exchange may list new STO series up to, and including on, the expiration date. The Exchange also stated that it would be at a competitive disadvantage if it were not allowed to adopt the proposed rule changes contemporaneously with other exchanges. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2013–60 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–BOX–2013–60.* 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

[12] *Id.*

[13] *See supra,* note 3.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BOX–2013–60 and should be submitted on or before January 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Lynn Powalski,**

*Deputy Secretary.*

[FR Doc. 2013–31371 Filed 12–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71188; File No. SR–BOX–2013–59]**

## Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Short Term Option Series Program

December 26, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 20, 2013, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Interpretive Material 5050–6 (''IM–5050–6'') to BOX Rule 5050 (Series of Options Contracts Open for Trading) to expand the Short Term Options Program with respect to non-index options.[3] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com*.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend IM–5050–6 to BOX Rule 5050 (Series of Options Contracts Open for Trading) to expand the Short Term Options Program with respect to non-index options. This is a competitive filing that is based on a proposal recently submitted by The International Securities Exchange, LLC (''ISE'').[4]

The Exchange proposes to expand the Short Term Options (''STO'') Program for non-index options so that the Exchange may: change the current thirty option class limitation to fifty option classes on which STOs may be opened; match the parameters for opening initial and additional STO strikes to what is permissible per the Options Listing Procedures Plan (''OLPP'');[5] open up to thirty initial STO series for each expiration date in an STO class; add an STO strike price interval of $2.50 or greater where the strike price is above $150; and in general harmonize the different parts of the Program (*e.g.,* initial listings and additional series).

The STO Program, which was established in 2010,[6] is codified in IM–5050–6 for non-index options including equity, currency, and exchange traded fund (''ETF'') options.[7] These rules currently provide that after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on no more than thirty option classes that expire on each of the next five consecutive Fridays that are business days.[8] In addition to the thirty-option class limitation, there is also a limitation that no more than twenty initial series for each expiration date in those classes may be opened for trading; provided, however, that the Exchange may open up to 10 additional series when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened.[9]

Furthermore, the strike price of each STO has to be fixed with approximately

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] STOs, also known as ''weekly options'' as well as ''Short Term Options'', are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. For STO Program rules regarding non-index options, see Rule 100(64) and IM–5050–6 to Rule 5050. For STO Program rules regarding index options, which are not implicated by this proposal, see Rule 6010(n) and IM–6090–1 to Rule 6090.

[4] *See* SR–ISE–2013–69 which is based on the recently approved rule filing, SR–Phlx–2013–101. *See* Securities Exchange Act Release No. 71004 (December 6, 2013), 78 FR 75437 (December 11, 2013) (SR–Phlx–2013–101) (Order Granting Approval of Proposed Rule Change Regarding the Short Term Options Program).

[5] The full name of the OLPP (which is applicable to all option exchanges) is Plan For The Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934. With regard to the listing of new series on equity, ETF, or trust issued receipt (''TIRs'') option classes, subsection 3.(g)(i) of the OLPP states, in relevant part, that the exercise price of each option series listed by an exchange that chooses to list a series of options (known as the Series Selecting Exchange) shall be fixed at a price per share which is reasonably close to the price of the underlying equity security, ETF, or TIR at or about the time the Series Selecting Exchange determines to list such series. Except as provided in subparagraphs (ii) through (iv) of the OLPP, if the price of the underlying security is less than or equal to 20, the Series Selecting Exchange shall not list new option series with an exercise price more than 100% above or below the price of the underlying security. If the price of the underlying security is greater than $20, the Series Selecting Exchange shall not list new option series with an exercise price more than 50% above or below the price of the underlying security. Subsection 3.(g)(i) of the OLPP indicates that an option series price has to be reasonably close to the price of the underlying security and must not exceed a maximum of 50% or 100%, depending on the price, from the underlying. The Exchange's proposal related to non-index options, while conforming to the current structure of the Exchange's STO rules, is similar in practical effect to the noted OLPP subsection.

[6] *See* Securities Exchange Act Release No. 62505 (July 15, 2010), 75 FR 42792 (July 22, 2010) (SR–BX–2010–047) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish a Short Term Option Program).

[7] The Exchange does not by this filing propose any changes to Interpretive Material, IM–6090–6, to BOX Rule 6090 related to the STO Program for index options.

[8] The Exchange increased the number of option issues that could be opened pursuant to the STO Program in 2012. *See* Securities Exchange Act Release No. 66982 (May 14, 2012), 77 FR 29718 (May 18, 2012) (SR–BOX–2012–001).

[9] *See* IM–5050–6(b)(3) and (4) to Rule 5050.

the same number of strike prices being opened above and below the value of the underlying security at about the time that the STOs are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. In terms of the strike price intervals, the STO Program currently allows the interval between strike prices on STOs to be (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes that participate in the STO Program; or (ii) $0.50 for option classes that trade in one dollar increments, *i.e.,* in the Related non-STO,[10] and are in the STO Program. This proposal retains many of the fundamental limitations of the STO Program while proposing specific changes as described below.

The Proposal

First, the Exchange proposes to increase the number of STO classes that may be opened after an option class has been approved for listing and trading on the Exchange. Specifically, the Exchange proposes in IM–5050–6(b)(1) that the Exchange may select up to fifty currently listed option classes on which STO series may be opened. The Exchange also proposes in IM–5050–6(b)(3) that for each option class eligible for participation in the STO Program, the Exchange may open up to thirty initial STO series for each expiration date in that class. Currently BOX rules permit the Exchange to list up to twenty initial series, and up to ten additional series, for each option class that participates in the STO program.[11] While BOX may currently list thirty STO series total, the Exchange is proposing to increase the number of initial series that it may list in order to remain competitive with other exchanges. The Exchange will continue to be limited to a total of thirty STO series, including both initial and additional series, and is proposing amendments to IM–5050–6(b)(4) to reflect the fact that the Exchange may only open additional series if it has opened fewer than thirty initial series. The Exchange believes that this proposed moderate increase in the number of STO classes and initial STO series is needed and advisable in light of the demonstrated acceptance and popularity of the STO Program among market participants, as discussed below. The Exchange notes that BOX's Rules governing the Program are written so that the number of classes that may participate are not apportioned between equity and index classes. In other words, the class limitation is aggregated between equity and index options.

Second, the Exchange proposes changes to IM–5050–6(b)(3) and (4) to indicate that any initial or additional strike prices listed by the Exchange shall be reasonably close to the price of the underlying equity security and within the following parameters: (i) if the price of the underlying security is less than or equal to $20, strike prices shall be not more than one hundred percent (100%) above or below the price of the underlying security; and (ii) if the price of the underlying security is greater than $20, strike prices shall be not more than fifty percent (50%) above or below the price of the underlying security.[12] This proposal is in line with the process for adding new series of options found in subsection 3.(g)(i) of the OLPP, and harmonizes the STO Program internally by adopting consistent parameters for opening STOs and listing additional strike prices. The Exchange believes that this proposal is a reasonable and desirable enhancement to the STO Program.

Third, the Exchange proposes additional changes to IM–5050–6(b)(4) to indicate that if the Exchange has opened less than thirty STO series for an STO expiration date, the Exchange may also open additional strike prices of STO series that are more than 50% above or below the current price of the underlying security if the price is greater than $20, provided that demonstrated customer interest exists for such series,[13] as expressed by institutional, corporate or individual customers or their brokers. This is done to further conform the additional strike price methodology to the proposed listing parameters described above, while retaining demonstrated interest language that may be useful in unforeseen circumstances. Furthermore, Rule 5050(b)(1) currently states that if the price of the underlying security is greater than $20, the Exchange shall not list new option series with an exercise price more than 50% above or below the price of the underlying security. Immediately before this language, the Exchange proposes to also add a carve-out that states: ''Except as provided in IM–5050–6(b)(4) . . .''

Fourth, the Exchange proposes to simplify the delisting language in IM–5050–6(b)(4), by removing the current range methodology that states, in part, that the Exchange will delist certain series ''so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security.''[14] In the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, the Exchange will continue to delist any series with no open interest in both the call and the put series having a: (i) strike higher than the highest price with open interest in the put and/or call series for a given expiration week; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration week.[15] New series added after delisting will not be constrained by the prior range methodology. The Exchange believes that, like its other proposals, the delisting proposal will add clarity and certainty to the STO process on the Exchange.

Fifth, the Exchange proposes to add $2.50 strike price intervals to the STO Program. Specifically, the Exchange proposes in IM–5050–6(b)(5) to indicate that the interval between strike prices on STOs may be $2.50 or greater where the strike price is above $150. This proposed change complements the current STO strike price intervals of $0.50 or greater where the strike price

[10] Related non-STOs are non-STOs that have similar options with longer expiration cycles (*e.g.,* monthly Apple (AAPL) options would be related non-STOs to weekly AAPL options).

[11] *See* IM–5050–6(b)(3) and (4) to Rule 5050.

[12] The price of the underlying security will be calculated commensurate with Rule 5050(b)(1) as amended.

[13] Market Makers trading for their own account are not considered when determining customer interest.

[14] Currently, the delisting language states: ''In the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, BOX will delist any series with no open interest in both the call and the put series having a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration month, so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security. In the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security and all existing series have open interest, BOX may list additional series, in excess of the 30 allowed under IM–5050–6(b), that are between 10% and 30% above or below the price of the underlying security.'' IM–5050–6(b)(4). *See* Securities Exchange Act Release No. 68361 (December 5, 2012), 77 FR 73729 (December 11, 2012) (SR–BOX–2012–020) (Notice of Filing and Immediate Effectiveness of a Proposal to Expand the Short Term Options Series Program).

[15] The Exchange notes that the delisting language in IM–5050–6(b)(4) incorrectly refers to expiration months rather than weeks. With this filing the Exchange also proposes to clarify that the exchange will delist series for given expiration weeks in accordance with the criteria discussed in this rule.

is less than $75 (or for STO classes that trade in one dollar increments in the Related non-STO), and $1 or greater where the strike price is between $75 and $150. The proposed $2.50 strike price interval addresses the issue that above a $150 strike price STO strike price intervals must generally be an exceedingly wide $5 or greater.[16]

The principal reason for the proposed expansion is market demand for additional STO classes and series and a desire to make the STO Program more effective. There is continuing strong customer demand for having the ability to execute hedging and trading strategies via STOs, particularly in the current fast and volatile multi-faceted trading and investing environment that extends across numerous markets and platforms,[17] and includes market moving events such as significant market volatility, corporate events, or large market, sector, or individual issue price swings. The Exchange has been requested by traders and other market participants to expand the STO Program to allow additional STO offerings and increased efficiency.

In order that the Exchange not exceed the current thirty option class and twenty initial option series restriction, the Exchange has on occasion had to turn away STO customers (traders and investors) because it could not list, or had to delist, STOs or could not open adequate STO series because of restrictions in the STO Program. This has negatively impacted investors and traders, particularly retail investors, who have continued to request that the Exchange add, or not remove, STO classes, or have requested that the Exchange expand the STO Program so that additional STO classes and series could be opened that would allow the market participants to execute trading and hedging strategies. There are, as discussed, substantial benefits to market participants having the ability to trade eligible option classes within the STO Program. Furthermore, the Exchange supports the objective of responding to customer need to enhance successful programs to make them more efficient for hedging and trading purposes. The Exchange notes that the STO Program has been well-received by market participants, in particular by retail investors. The Exchange believes that weekly expiration options will continue to grow in importance for all market participants, including institutional and retail investors.[18] The proposed revisions to the STO Program will permit the Exchange to meet customer demand for weekly expiration options by providing a reasonable expansion to the program, and will further allow the Exchange to harmonize STO Program rules with the OLPP as well as internally.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the STO Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange represents that it will monitor the trading volume associated with the additional STO classes and series listed as a result of this proposal and the effect (if any) of these additional STO classes and series on market fragmentation and on the capacity of the Exchange's automated systems.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[19] in general, and Section 6(b)(5) of the Act,[20] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Expanding the classes and additional series that can be opened in the STO Program, simplifying the delisting process, and allowing $2.50 strike price intervals will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions in greater number of securities. In addition, correcting the delisting language, which currently refers to ''expiration months'' instead of weeks will clarify the Exchange's rules and reduce investor confusion.

The STO Program has been well-received by market participants, and in particular by retail investors, and has seen increasing trading volume. The Exchange believes that the current proposed revisions to the STO Program will permit the Exchange to meet customer demand for weekly expiration options by providing a reasonable expansion to the program, and will further allow the Exchange to harmonize STO Program rules with the OLPP as well as internally to the benefit of investors, market participants, and the marketplace.

With regard to the impact of this proposal on system capacity, the Exchange believes that it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the STO Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. As explained above, this proposal will afford significant benefits to market participants, and the market in general, in terms of significantly greater flexibility and increases in efficient trading and hedging options. It will also allow the Exchange to compete on equal footing with STO Programs adopted by other options exchanges, and in particular ISE, which has recently adopted substantially similar rules to those proposed here.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by the ISE[21] which the Exchange believes is necessary to permit fair competition among the options exchanges with respect to STO Programs. Additionally, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

[16] *See, e.g.,* Rule 5050(d).

[17] These include, without limitation, options, equities, futures, derivatives, indexes, ETFs, exchange traded notes, currencies, and over the counter instruments.

[18] The current STO Program, which is similar across all options markets that have weeklies programs, is in its current formulation one of the more challenging industry-wide listings program to administer. Recognizing the importance of the Program, the Exchange is seeking to improve the Program for non-index STOs by making it more uniform and logical.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *See supra,* note 4.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [22] and Rule 19b–4(f)(6) thereunder.[23]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will promote fair competition among the exchanges by allowing the Exchange to adopt the proposed rule changes contemporaneously with other exchanges. The Exchange also stated that the proposal will allow the Exchange to offer a more efficient STO Program that is harmonized internally and externally with the OLPP, and to meet customer demand for a greater number of STO classes and strike price intervals, in the same manner as other exchanges. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2013–59 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2013–59. 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–BOX–2013–59 and should be submitted on or before January 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Lynn Powalski,**

*Deputy Secretary.*

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[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71190; File No. SR–CBOE–2013–126]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to Supervision

December 26, 2013.

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 December 18, 2013, 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 substantially 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**

CBOE proposes to adopt a rule requiring each Trading Permit Holder (''TPH'') to establish and maintain a system of supervision and written supervisory procedures. The text of the proposed rule change is available on the Exchange's Web site at *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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Effective and comprehensive compliance policies and procedures and supervisory systems are critical to investor protection and market integrity; therefore, the Exchange proposes to adopt Rule 4.24 that would require its TPHs to establish and maintain a system to supervise each of their business activities and the activities of their associated persons.[3] As more fully described below, the proposed rule would also require TPHs to: (1) establish, maintain, and enforce written supervisory procedures; (2) inspect every office or location of the TPH at least once every three calendar years; and (3) conduct an annual review and submit to the Exchange on an annual basis a written report on the TPH's supervision and compliance efforts during the preceding year.

The Exchange does not currently have a comprehensive rule that directly addresses the obligation of every TPH to properly supervise its business and employees. The proposed rule would impose a more definitive supervision requirement on TPHs than is currently contained in the Exchange's rules, and would cover all business activities of a TPH.[4]

Currently, the only supervision obligations that are expressly codified in CBOE Rules are found in Rule 4.2—*Adherence to Law* and Rule 9.8—*Supervision of Accounts.* Rule 4.2 reads as follows:

No Trading Permit Holder shall engage in conduct in violation of the Securities Exchange Act of 1934, as amended, rules or regulations thereunder, the Bylaws or the Rules of the Exchange, or the Rules of the Clearing Corporation insofar as they relate to the reporting or clearance of any Exchange transaction, or any written interpretation thereof. Every Trading Permit Holder shall so supervise persons associated with the Trading Permit Holder as to assure compliance therewith.

While it requires a TPH to supervise persons associated with the TPH, Rule 4.2 does not expressly require a system of supervision, or written procedures covering each line of business to be established and maintained The proposed rule would clearly place responsibility on TPHs to establish and maintain a formal plan of supervision that covers each of its business activities and associated persons.

CBOE Rule 9.8, a component of Chapter 9—*Doing Business with the Public,* is applicable only to TPHs conducting non-TPH customer business in options. The proposed rule would mirror many of the requirements in Rule 9.8, in that Rule 9.8 requires TPHs to: (1) establish, maintain, and enforce written supervisory procedures; (2) conduct office inspections; and (3) conduct an annual review and submit to the Exchange an annual written report on the TPH's supervision and compliance efforts during the preceding year. However, the proposed rule would not be limited to supervision of activities related only to TPHs conducting non-TPH customer business in options. Therefore, the proposed rule would provide greater utility for enforcing TPH obligations for other business areas such as proprietary trading.

The Exchange believes the proposed rule would clarify: (1) the responsibility of the TPH for the acts of its associated persons; and (2) the requirement of each TPH to supervise those associated persons for which it is responsible. Proposed Rule 4.24(a) would generally establish each TPH's responsibility for the supervision and control of the TPH. The proposed rule would also require that each associated person, in addition to each office, location, department, business activity, trading system, and internal surveillance system of a TPH, be under the supervision and control of an appropriately qualified supervisor as described in proposed Rule 4.24(c).[5]

Proposed Rule 4.24(b) would provide for the designation of a general partner or principal executive officer to assume overall authority and responsibility for the supervisory system of the TPH. This designee would then be responsible for: (1) Delegating to qualified principals responsibility and authority for supervision and control of each office, location, department, business activity, trading system, and internal surveillance system, as well as providing for appropriate written procedures of supervision and control; and (2) establishing a separate system of follow-up and review to determine that the delegated responsibility and authority is properly exercised.[6]

Proposed Rules 4.24(c) and (d) would provide for the qualifications of supervisors and the standards of supervision, respectively. Under proposed paragraph (c), TPHs would have to make reasonable efforts to determine that those persons with supervisory control, as described in proposed Rules 4.24(a) and (b), are qualified by virtue of experience or training to carry out their assigned responsibilities. This paragraph would also require supervisors to meet the Exchange's qualification requirements for supervisors, including completion of the appropriate examinations.[7] For example, CBOE Rule 3.6A—*Qualification and Registration of Trading Permit Holders and Associated Persons* sets forth required examinations for associated persons engaged in the securities business of a TPH. Proposed paragraph (d) would require that any person with supervisory control, as described in proposed Rules 4.24(a) and (b), reasonably discharge his or her duties and obligations in connection with such supervision and control in order to prevent and detect violations of applicable securities laws and regulations and applicable Exchange rules.[8]

Proposed Rule 4.24(e) would require each TPH to establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise each of its business activities and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations as well as applicable Exchange rules. The proposed rule would also require that the written supervisory procedures be amended as changes occur to a TPH's personnel or supervisory procedures and within a reasonable time after changes occur in applicable securities laws and regulations and the rules of the Exchange. Additionally, the proposed

[3] Article 1, Section 1.1(f) of the Exchange's Bylaws defines ''Trading Permit Holder'' to mean ''any individual, corporation, partnership, limited liability company or other entity authorized by the Rules that holds a Trading Permit.'' The proposed rule would also apply to CBOE Stock Exchange (''CBSX'') Trading Permit Holders. CBSX is CBOE's stock trading facility.

[4] The proposed rule is modeled after similar rules of other self-regulatory organizations (''SROs''), *i.e.,* PHLX Rule 748, NASD Rule 3010, FINRA Rule 3130, NYSE Amex Rule 320, NYSE Rule 342, and NYSE Arca Rule 11.18.

[5] Proposed Rule 4.24(a) is modeled after PHLX Rule 748(a), NYSE MKT Rule 320(b), NYSE Rule 342(a), NYSE Arca Rule 11.18(b) and NASD Rule 3010(a).

[6] Proposed Rule 4.24(b) is modeled after PHLX Rule 748(b), NYSE MKT Rule 320(c), NYSE Rule 342(b) and NASD Rule 3010(a).

[7] Proposed Rule 4.24(c) is modeled after NASD Rule 3010(a)(6) and PHLX Rule 748(c).

[8] Proposed Rule 4.24(d) is modeled after PHLX Rule 748(d), NYSE MKT Rule 320(b) and NYSE Rule 342(a).

rule would require TPHs to maintain a record of the name, title, registration status and location of all supervisory personnel required by the proposed rule, the dates for which supervisory designations were or are effective, and the responsibilities of the supervisory personnel as these relate to the types of business the TPH engages in, and applicable securities laws and regulations, including applicable Exchange rules. TPHs would be required to preserve such record for a period of not less than three years, the first two in an easily accessible place. Lastly, the proposed rule would require a copy of the written supervisory procedures to be kept and maintained at each location where supervisory activities are conducted on behalf of the TPH.[9]

Proposed Rule 4.24(f) would require that each TPH perform inspections of every office or location of the TPH at least once every three calendar years. An inspection could not be conducted by any person within that office or location who has supervisory responsibilities or by any individual who is directly or indirectly supervised by such person(s). This provision is intended to help ensure that all activity of an office or location is monitored for compliance with applicable regulatory requirements by persons who do not have a personal interest in such activity. The proposed rule would require the examination schedule and an explanation of the factors considered in determining the frequency of the examinations in the cycle to be set forth in the TPH's written supervisory procedures. When establishing the inspection cycle, the TPH would be required to consider the nature and complexity of the securities activities for which the office or location is responsible, the volume of business done, and the number of associated persons at each office or location. For each inspection, the TPH would be required to retain a written record of the dates upon which each inspection is conducted, the participants involved, and the results thereof.[10]

As noted above, effective and comprehensive compliance policies and procedures and supervisory systems are key to investor protection and market integrity. Therefore, it is essential that TPHs put adequate emphasis on the importance of compliance throughout the firm. To promote regular discussion and review of its supervisory system, proposed Rule 4.24(g) would require each TPH to conduct an annual review and submit to the Exchange on an annual basis a written report on the TPH's supervisory system.

Paragraph (g)(1) of proposed Rule 4.24 would require that each TPH conduct annual meetings or interviews with all associated persons to discuss compliance matters relevant to their activities. The TPH would be required to maintain a written record of the dates the meetings or interviews were held, who was present at each meeting or interview, and the results thereof.[11]

Proposed Rule 4.24(g)(2) would require TPHs to prepare a written report on the firm's supervision and compliance efforts during the preceding year and on the adequacy of the firm's ongoing compliance processes and procedures. TPHs would be required to submit such report to the Exchange by April 1 of each year. The proposed Rule would require that the report include four elements: (1) a tabulation of customer complaints (including arbitrations and civil actions) and internal investigations, if any; (2) identification and analysis of significant compliance problems, plans for future systems or procedures to prevent and detect violations and problems, and an assessment of the preceding year's efforts of this nature; (3) discussion of the preceding year's compliance efforts, new procedures, educational programs, etc. in the areas of antifraud and trading practices, books and records, finance and operations, supervision, internal controls, and anti-money laundering; and (4) a certification signed by the TPH's Chief Executive Officer (''CEO'') or equivalent officer.[12]

The certification signed by the TPH's CEO (or equivalent officer) would be required to include four components, the last three of which would be intended to foster regular and significant interaction between senior management and the Chief Compliance Officer (''CCO'') regarding the TPH's comprehensive compliance program:

The first component relates to requirements found in paragraph (e) of the proposed rule.[13] Specifically, the CEO (or equivalent officer) would be required to certify that the TPH has in place processes to: (1) establish and maintain policies and procedures reasonably designed to achieve compliance with applicable Exchange rules and federal securities laws and regulations; (2) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and (3) test the effectiveness of such policies and procedures on a periodic basis.[14]

The second component would require the CEO (or equivalent officer) to certify that he or she conducted one or more meetings with the firm's CCO during the preceding 12 months in which they discussed and reviewed the matters described in the certification, including the TPH's prior compliance efforts.[15] The CEO (or equivalent officer) and CCO would also be required to identify and address any significant compliance problems or plans for emerging business areas.[16]

The third component of the certification would require the CEO (or equivalent officer) to certify that he or she reviewed a report evidencing the processes covered in the first component of the certification.[17] This report would also be reviewed by the CCO and such other officers as the TPH deems necessary in order for the CEO to make the required certification. Further, the CEO would be required to certify that the report was submitted to the TPH's board of directors or audit committee by April 1st of each year. If a TPH does not utilize these types of governing bodies in the conduct of its business, the TPH would be required to have the report reviewed by any governing body or committee that serves a similar function in lieu of a board of directors or audit committee.[18]

The fourth component of the certification[19] would require the CEO (or equivalent officer) to certify that he or she consulted with the CCO and other officers referenced in proposed Rule 4.24(g)(2)(D)(iii) and other such employees, outside consultants, lawyers and accountants, to the extent he or she deems appropriate, in order to attest to the statements made in the certification.[20]

Finally, proposed paragraph (g)(3) would deem any TPH to have met the requirements of proposed Rules 4.24(g)(1) and (2) if the TPH specifically includes its options compliance

[9] Proposed Rule 4.24(e) is modeled after PHLX Rule 748(h) and NASD Rule 3010(b)(1), (3) and (4).

[10] Proposed Rule 4.24(f) is modeled after PHLX Rule 748(g) and NASD Rules 3010(c)(1)(B) and (c)(3).

[11] Proposed Rule 4.24(g)(1) is modeled after PHLX Rule 748(e)(1).

[12] Proposed Rule 4.24(g)(2) is modeled after CBOE Rule 9.8(g)(1)–(5).

[13] *See* Proposed Rule 4.24(g)(2)(D)(i).

[14] Proposed Rule 4.24(g)(2)(D)(i) is modeled after FINRA Rule 3130(c)(1) and CBOE Rule 9.8(g)(5)(i).

[15] *See* Proposed Rule 4.24(g)(2)(D)(ii).

[16] Proposed Rule 4.24(g)(2)(D)(ii) is modeled after FINRA Rule 3130(c)(2) and CBOE Rule 9.8(g)(5)(ii).

[17] *See* Proposed Rule 4.24(g)(2)(D)(iii).

[18] Proposed Rule 4.24(g)(2)(D)(iii) is modeled after FINRA Rule 3130(c)(3) and CBOE Rule 9.8(g)(5)(iii).

[19] *See* Proposed Rule 4.24(g)(2)(D)(iv).

[20] Proposed Rule 4.24(g)(2)(D)(iv) is modeled after FINRA Rule 3130(c)(4) and CBOE Rule 9.8(g)(5)(iv).

program within an annual compliance review and written report that complies with substantially similar requirements of the Financial Industry Regulatory Authority, Inc. or any other SRO.[21] In that case, the TPH would still be required to submit a copy of such written report to the Exchange by April 1 of each year.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[22] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) of the Act,[23] which requires that the rules of an exchange be designed to, among other things, prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Compliance with applicable Exchange rules and federal securities laws is the bedrock of investor protection and market integrity. Therefore it is critical that TPHs employ comprehensive and effective compliance policies and procedures. The Exchange believes the proposed rule change would help promote just and equitable principles of trade and protect investors and the public interest by upgrading and strengthening the Exchange's rules pertaining to supervisory obligations of its TPHs.

TPHs are on the front line of defense against fraudulent and manipulative acts and practices. TPHs are in the unique position to identify potential rule violations or other inappropriate activity and correct it before intervention by the exchanges or the Commission. The Exchange believes a comprehensive supervision rule such as proposed Rule 4.24 should help to prevent fraudulent and manipulative acts and practices consistent with Section 6(b)(5) of the Act.

The Exchange believes that the proposed rule change should strengthen the Exchange's ability to examine TPHs for compliance with supervisory requirements by compelling that written supervisory procedures be maintained. Written supervisory procedures should provide TPHs and their supervisory personnel with a clear understanding of their supervisory responsibilities thus helping to ensure that those responsibilities are carried out effectively and efficiently. The Exchange also believes the proposal to require inspections of offices or other locations of TPHs would help strengthen the ability of TPHs to carry out their compliance and surveillance functions. By requiring written supervisory procedures and inspections that are reasonably designed to prevent and detect violations of applicable securities laws and regulations, as well as Exchange rules, the proposed rule would help to ensure that TPHs have the necessary processes in place to identify potential rule violations or inappropriate activity.

Furthermore, the Exchange believes the proposed requirements for an annual certification and written report would enhance focus on a TPH's compliance and supervision systems by promoting a dialogue throughout the TPH of its compliance efforts and procedures, thereby decreasing the likelihood of fraudulent and manipulative acts and practices and increasing investor protection.

Lastly, the Exchange believes the proposed rule change furthers the objectives of Section 6(b)(1)[24] of the Act, which provides that the Exchange must be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's TPHs and persons associated with its TPHs with the Act, the rules and regulations thereunder, and the rules of the Exchange. Requiring comprehensive supervision by TPHs and their associated persons of their activities should promote the Exchange's ability to enforce compliance by TPHs and their associated persons with the Act and the regulations thereunder.

*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. The Exchange believes the proposed rule change would upgrade and strengthen the Exchange's rules pertaining to supervisory obligations of its TPHs. As noted below, the proposed rule change is based on similar rules of other SROs.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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–2013–126 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–126. 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

[21] Proposed Rule 4.24(g)(3) is modeled after CBOE Rule 9.8(g)(5).

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78(f)(b)(1).

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–2013–126 and should be submitted on or before January 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Lynn M. Powalski,**

*Deputy Secretary.*

[FR Doc. 2013–31366 Filed 12–31–13; 8:45 am]

**BILLING CODE 8011–01–P**

[25] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71193; File No. SR–NASDAQ–2013–155]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change to List and Trade Shares of the AdvisorShares YieldPro ETF

December 26, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 13, 2013, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to list and trade the shares of the AdvisorShares YieldPro ETF (the ''Fund'') of the AdvisorShares Trust (the ''Trust'') under Nasdaq Rule 5735 (''Managed Fund Shares'').[3] The shares of the Fund are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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 list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares[4] on the Exchange. The Fund will be an actively managed exchange-traded fund (''ETF''). The Shares will be offered by the Trust, which was established as a Delaware statutory trust on July 30, 2007.[5] 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.[6] The Fund is a series of the Trust.

AdvisorShares Investments, LLC will be the investment adviser (''Adviser'') to the Fund. The Elements Financial Group, LLC will be the investment sub-adviser (''Sub-Adviser'') to the Fund. Foreside Fund Services, LLC (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon (''BNY Mellon'') will act as the administrator, accounting agent, custodian (''Custodian'') and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). There are already multiple actively-managed funds listed on the Exchange; *see* Securities Exchange Act Release No. 66175 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). Additionally, the Commission has previously approved the listing and trading of a number of actively-managed WisdomTree funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release No. 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR–NYSEArca–2011–21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1)(the ''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act (the ''Exemptive Order''). *See* Investment Company Act Release No. 28822 (July 20, 2009) (File No. 812–13677). In compliance with Nasdaq Rule 5735(b)(5), which applies to Managed Fund Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

[6] *See* Registration Statement on Form N–1A for the Trust, dated August 7, 2013 (File Nos. 333–157876 and 811–22110). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''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

Continued

paragraph (g) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is neither a broker-dealer nor affiliated with a broker-dealer. In the event (a) the Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

AdvisorShares YieldPro ETF

Principal Investments

According to the Registration Statement, the Fund's investment objective will be to provide current income and capital appreciation. The Fund will be an actively managed ETF that is a ''fund of funds'' seeking to achieve its investment objective by primarily investing in both long and short positions in other affiliated and unaffiliated ETFs [8] that offer diversified exposure to fixed income and other income producing securities. The Fund's investments may, at various times, include bonds and instruments issued by the U.S. government,[9] U.S. investment grade corporate debt, high yield bonds, municipal bonds, and mortgage-backed securities. The Fund will not invest in residential-mortgage backed securities or other asset-backed securities. The Fund may also invest in equity, inverse or other types of ETFs to supplement its fixed income ETF positions. The Fund intends to invest the majority of its assets in investments that provide a competitive yield on a risk-adjusted basis. The Fund will also allocate its investments to instruments which provide little or no yield for diversification or risk management purposes.

In seeking to achieve its investment objective, the Fund may also invest directly (as discussed herein) in U.S.-traded fixed income and equity securities, certain derivatives described below, namely options, futures, and structured notes; and other exchange-traded products (''ETPs'').

The Fund may trade put and call options on securities, securities indices and currencies. The Fund may purchase put and call options on securities to protect against a decline in the market value of the securities in its portfolio or to anticipate an increase in the market value of securities that the Fund may seek to purchase in the future. The Fund may write covered call options on securities as a means of increasing the yield on its assets and as a means of providing limited protection against decreases in its market value. The Fund may purchase and write options on an exchange or over-the-counter.

According to the Registration Statement, the Fund may buy and sell futures contracts. The Fund will only enter into futures contracts that are traded on a national futures exchange regulated by the Commodities Futures Trading Commission (''CFTC'').[10] The Fund may use futures contracts and related options for bona fide hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index or instrument; or other risk management purposes. The Fund may buy and sell index futures contracts with respect to any index that is traded on a recognized exchange or board of trade.

The Fund may invest in structured notes, which are debt obligations that also contain an embedded derivative component with characteristics that adjust the obligation's risk/return profile. Generally, the performance of a structured note will track that of the underlying debt obligation and the derivative embedded within it. The Fund has the right to receive periodic interest payments from the issuer of the structured notes at an agreed-upon interest rate and a return of the principal at the maturity date.

On a day-to-day basis, the Fund may hold money market instruments,[11] cash, other cash equivalents, and ETPs that invest in these and other highly liquid instruments to collateralize its derivative or short positions.

Other Investments

The Fund may invest in certificates of deposit issued against funds deposited in a bank or savings and loan association. In addition, the Fund may invest in bankers' acceptances, which are short-term credit instruments used to finance commercial transactions.

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.

[8] As described in the Registration Statement, 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. The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary 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.

[9] Such securities will include securities that are issued or guaranteed by the U.S. Treasury, by various agencies of the U.S. government, or by various instrumentalities, which have been established or sponsored by the U.S. government. U.S. Treasury obligations are backed by the ''full faith and credit'' of the U.S. government. Securities issued or guaranteed by federal agencies and U.S. government-sponsored instrumentalities may or may not be backed by the full faith and credit of the U.S. government.

[10] To the extent the Fund invests in futures, options on futures or other instruments subject to regulation by the CFTC, it will do so in reliance on and in compliance with CFTC regulations in effect from time to time and in accordance with the Fund's policies. The Trust, on behalf of certain of its series, has filed a notice of eligibility for exclusion from the definition of the term ''commodity pool operator'' in accordance with CFTC Regulation 4.5. Therefore, neither the Trust nor the Fund is deemed to be a ''commodity pool'' or ''commodity pool operator'' with respect to the Fund under the Commodity Exchange Act (''CEA''), and they are not subject to registration or regulation as such under the CEA. In addition, as of the date of this filing, the Adviser is not deemed to be a ''commodity pool operator'' or ''commodity trading adviser'' with respect to the advisory services it provides to the Fund. The CFTC recently adopted amendments to CFTC Regulation 4.5 and has proposed additional regulatory requirements that may affect the extent to which the Fund invests in instruments that are subject to regulation by the CFTC and impose additional regulatory obligations on the Fund and the Adviser. The Fund reserves the right to engage in transactions involving futures, options thereon and swaps to the extent allowed by CFTC regulations in effect from time to time and in accordance with the Fund's policies.

[11] For the Fund's purposes, money market instruments will include: Short-term, high-quality securities issued or guaranteed by U.S. governments, agencies and instrumentalities; non-convertible corporate debt securities with remaining maturities of not more than 397 days that satisfy ratings requirements under Rule 2a–7 of the 1940 Act; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. As a related matter, according to the Registration Statement, the Fund may invest in shares of money market mutual funds to the extent permitted by the 1940 Act.

The Fund also may invest in fixed time deposits, which are bank obligations payable at a stated maturity date and bearing interest at a fixed rate. Additionally, the Fund may invest in commercial paper, which are short-term unsecured promissory notes. The Fund may invest in commercial paper rated A–1 or A–2 by Standard and Poor's Rating Services (''S&P'') or Prime-1 or Prime-2 by Moody's Investors Service, Inc. (''Moody's) or, if unrated, judged by the Adviser to be of comparable quality. Together, these Other Investments will make up less than 20% of the Fund assets under normal circumstances.

Investment Restrictions

According to the Registration Statement, the Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other investment companies.[12]

The Fund will not purchase securities of open-end or closed-end investment companies except in compliance with the 1940 Act.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment).[13] 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. 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.[14]

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company under SubChapter M of the Internal Revenue Code.[15]

Under the 1940 Act, the Fund's investment in investment companies will be limited to, subject to certain exceptions: (i) 3% of the total outstanding voting stock of any one investment company, (ii) 5% of the Fund's total assets with respect to any one investment company, and (iii) 10% of the Fund's total assets with respect to investment companies in the aggregate.

The Fund's investments will be consistent with the Fund's investment objective.

Net Asset Value

According to the Registration Statement, the Fund's net asset value (''NAV'') will be determined as of the close of trading (normally 4:00 p.m., Eastern time (''E.T.'')) on each day the New York Stock Exchange (''NYSE'') is open for business. 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 such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share. All valuations will be subject to review by the Trust's Board of Trustees or its delegate.

The Fund's investments will be valued at market value or, in the absence of market value with respect to any investment, at fair value in accordance with valuation procedures adopted by the Trust's Board of Trustees and in accordance with the 1940 Act. Common stocks and equity securities (including shares of ETFs) traded on a domestic securities exchange will be valued at the last sales price on that exchange. The Fund will not invest in over-the-counter equity securities. Portfolio securities traded on more than one securities exchange will be valued at the last sale price or, if so disseminated by an exchange, the official closing price, as applicable, at the close of the exchange representing the principal exchange or market for such securities on the business day as of which such value is being determined. U.S. listed foreign equities and listed ADRs will be valued at the last sales price on the relevant exchange on the valuation date. If, however, neither the last sales price nor the official closing price is available, each of these securities will be valued at the mean of the most recent bid and ask prices on such day.

Fixed income securities, including municipal bonds, mortgage-backed securities, treasuries, and corporate bonds, will be valued at the mean of the final bid and ask prices, and if a mean is not available, the security will be valued at the final bid price.

Options will be valued at the mean of the final bid and ask prices on the same business day that such value is being determined at the close of the exchange representing the principal market for such securities. If the mean is not available, options will be valued using the last sales price at the close of the exchange. OTC options will be valued on the basis of the OTC pricing matrix provided by the trading broker. In both instances, third-party valuation services will value OTC options on behalf of the Fund.

Non-listed ADRs will be valued at the last sales price, if available; otherwise, non-listed ADRs will be valued at the mean of the final bid and ask price from independent pricing services. Swaps will be valued using the mid-level quote as of 4:00 p.m. EST. Non-exchange-traded derivatives, including swaps, will normally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the earlier closing of the principal markets for those assets. Prices obtained from independent pricing services use information provided by market makers or estimates of market values obtained from yield data relating to investments or securities with similar characteristics.

Exchange-traded futures contracts will be valued at the closing price in the market where such contracts are principally traded. Established pricing methods and valuation policies and procedures outlined above may change, subject to the review and approval of the Trust's Fair Valuation Committee and Board of Trustees, as necessary.

Certain securities may not be able to be priced by pre-established pricing methods. Such securities may be valued by the Board or its delegate at fair value.

[12] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[13] 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 trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[14] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), FN 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[15] 26 U.S.C. 851.

The use of fair value pricing by the Fund will be governed by valuation procedures adopted by the Board and in accordance with the provisions of the 1940 Act. These securities generally include, but are not limited to, restricted securities (securities which may not be publicly sold without registration under the Securities Act of 1933) for which a pricing service is unable to provide a market price; securities whose trading has been formally suspended; a security whose market price is not available from a pre-established pricing source; a security with respect to which an event has occurred that is likely to materially affect the value of the security after the market has closed but before the calculation of the Fund's net asset value or make it difficult or impossible to obtain a reliable market quotation; and a security whose price, as provided by the pricing service, does not reflect the security's ''fair value.'' As a general principle, the current ''fair value'' of a security would appear to be the amount which the owner might reasonably expect to receive for the security upon its current sale. The use of fair value prices by the Fund generally results in the prices used by the Fund that may differ from current market quotations or official closing prices on the applicable exchange. A variety of factors may be considered in determining the fair value of such securities.

Creation and Redemption of Shares

The Trust will issue and sell Shares of the Fund only in Creation Unit aggregations, and only in aggregations of at least 25,000 Shares, on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt, on any business day, of an order in proper form.

The consideration for purchase of Creation Unit aggregations of the Fund may consist of (i) cash in lieu of all or a portion of the Deposit Securities, as defined below, and/or (ii) a designated portfolio of securities determined by the Adviser that generally will conform to the holdings of the Fund consistent with its investment objective (the ''Deposit Securities'') per each Creation Unit aggregation and generally an amount of cash (the ''Cash Component'') computed as described below. Together, the Deposit Securities and the Cash Component (including the cash in lieu amount) will constitute the ''Fund Deposit,'' which will represent the minimum initial and subsequent investment amount for a Creation Unit aggregation of the Fund.

The consideration for redemption of Creation Unit aggregations of the Fund may consist of (i) cash in lieu of all or a portion of the Fund Securities as defined below, and/or (ii) a designated portfolio of securities determined by the Adviser that generally will conform to the holdings of the Fund consistent with its investment objective per each Creation Unit aggregation (''Fund Securities'') and generally a Cash Component, as described below.

The Cash Component is sometimes also referred to as the Balancing Amount. The Cash Component will serve the function of compensating for any differences between the NAV per Creation Unit aggregation and the Deposit Amount (as defined below). For example, for a creation the Cash Component will be an amount equal to the difference between the NAV of Fund Shares (per Creation Unit aggregation) and the ''Deposit Amount''—an amount equal to the market value of the Deposit Securities and/or cash in lieu of all or a portion of the Deposit Securities. If the Cash Component is a positive number (*i.e.,* the NAV per Creation Unit aggregation exceeds the Deposit Amount), the Authorized Participant (defined below) will deliver the Cash Component. If the Cash Component is a negative number (*i.e.,* the NAV per Creation Unit aggregation is less than the Deposit Amount), the Authorized Participant will receive the Cash Component.

The Custodian, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, prior to the opening of business of the NYSE (currently 9:30 a.m., E.T.), the list of the names and the quantity of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day). Such Fund Deposit will be applicable, subject to any adjustments as described below, in order to effect creations of Creation Unit aggregations of the Fund until such time as the next-announced composition of the Deposit Securities is made available. The Custodian, through the NSCC, will also make available on each business day, prior to the opening of business of the NYSE (currently 9:30 a.m., E.T.), the list of the names and the quantity of each security to be included (based on information at the end of the previous business day), subject to any adjustments as described below, in order to affect redemptions of Creation Unit aggregations of the Fund until such time as the next-announced composition of the Fund Securities is made available.

The identity and quantity of the Deposit Securities required for a Fund Deposit for the Shares may change as rebalancing adjustments and corporate action events are reflected within the Fund from time to time by the Adviser consistent with the investment objective of the Fund. In addition, the Trust will reserve the right to permit or require the substitution of an amount of cash, *i.e.,* a ''cash in lieu'' amount, to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or which might not be eligible for trading by an Authorized Participant or the investor for which it is acting or other relevant reason.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of a Fund Deposit, the Custodian, through the NSCC, will also make available on each business day, the estimated Cash Component, effective through and including the previous business day, per Creation Unit aggregation of the Fund.

According to the Registration Statement, to be eligible to place orders with respect to creations and redemptions of Creation Units, an entity must be (i) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the continuous net settlement system of the NSCC or (ii) a Depository Trust Company (''DTC'') Participant (a ''DTC Participant''). In addition, each Participating Party or DTC Participant (each, an ''Authorized Participant'') must execute an agreement that has been agreed to by the Distributor and the Custodian with respect to purchases and redemptions of Creation Units.

All orders to create Creation Unit aggregations must be received by the Distributor no later than 3:00 p.m., Eastern time, an hour earlier than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., E.T.), in each case on the date such order is placed in order for creations of Creation Unit aggregations to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form.

In order to redeem Creation Units of the Fund, an Authorized Participant must submit an order to redeem for one or more Creation Units. All such orders must be received by the Distributor in proper form no later than 3:00 p.m., Eastern time, an hour earlier than the close of regular trading on the NYSE (ordinarily 4:00 p.m. E.T.), in order to receive that day's closing NAV per Share.

Availability of Information

The Fund's Web site (*www.advisorshares.com*), which will be publicly available prior to the public

offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include the Fund's ticker, Cusip and exchange information along with additional quantitative information updated on a daily basis, including, for the Fund: (1) Daily trading value, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price'') [16] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session [17] 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.[18] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting and market value of securities and other assets held by the Fund and the characteristics of such assets. The Web site and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service [19] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. Information regarding the ETFs, other ETPs, options, futures, equity securities, debt securities, and other investments held by the Fund will be available from the U.S. securities exchanges trading such securities, in the case of exchange-traded securities, as well as automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Additionally, OTC pricing information is available at *www.otcbb.com.*

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Intra-day, executable price quotations on the securities and other assets held by the Fund, will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable. Intra-day price information will also be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

Investors will also be able to obtain the Fund's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. 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 plans for the Shares and any underlying exchange-traded products.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions and taxes will be included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 [20] under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. 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 Halts

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. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and 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. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules

[16] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[17] *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. E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

[18] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[19] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. 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.

[20] *See* 17 CFR 240.10A–3.

governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[21] The Exchange 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.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'')[22] and FINRA may obtain trading information regarding trading in the Shares and exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded securities and instruments held by the Fund 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. Such securities and instruments will comprise at least 90% of the Fund's assets at all times.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

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: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) 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; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. 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. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio. The Fund's investments will be consistent with the Fund's investment objective. FINRA may obtain information via ISG from other exchanges that are members of ISG. In addition, the Exchange may obtain information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund 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. Such securities and instruments will comprise at least 90% of the Fund's assets at all times. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that 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. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service will be widely disseminated by one or more

[21] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[22] 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.

major market data vendors at least every 15 seconds during the Regular Market Session. Information regarding the ETFs, other ETPs, options, futures, equity securities, debt securities, and other investments held by the Fund will be available from the U.S. securities exchanges trading such securities, in the case of exchange-traded securities, as well as automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio of the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day. 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, and 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 plans for the Shares and any underlying exchange-traded products. Intra-day price information will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

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. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of the ISG and FINRA may obtain trading information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund from such markets and other entities. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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–NASDAQ–2013–155 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–155. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–155, and should be submitted on or before January 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**Lynn M. Powalski,**

*Deputy Secretary.*

[FR Doc. 2013–31367 Filed 12–31–13; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 3.125 (3⅛) percent for the January–March quarter of FY 2014.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

**Linda S. Rusche,**

*Director, Office of Financial Assistance.*

[FR Doc. 2013–31358 Filed 12–31–13; 8:45 am]

**BILLING CODE 8025–01–P**

## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA–2013–0068]**

### Rate for Assessment on Direct Payment of Fees to Representatives in 2014

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice.

**SUMMARY:** We are announcing that the assessment percentage rate under sections 206(d) and 1631(d)(2)(C) of the Social Security Act (Act), 42 U.S.C. 406(d) and 1383(d)(2)(C), is 6.3 percent for 2014.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey C. Blair, Associate General Counsel for Program Law, Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401. Phone: (410) 965–3157, email *Jeff.Blair@ssa.gov.*

**SUPPLEMENTARY INFORMATION:** Individuals claiming Social Security benefits or Supplemental Security Income payments may choose to hire representatives to assist them with their claims. If the claim is successful and the individual was represented either by an attorney or by a non-attorney representative who has met certain prerequisites, the Act provides that we may withhold up to 25 percent of the past-due benefits on the claim and use that money to pay the representative's approved fee directly to the representative.

When we pay the representative's fee directly to the representative, we must collect from that fee payment an assessment to recover the costs we incur in determining and paying representatives' fees. The Act provides that the assessment we collect will be the lesser of two amounts: A specified dollar limit; or the amount determined by multiplying the fee we are paying by the assessment percentage rate. (Sections 206(d), 206(e), and 1631(d)(2) of the Act, 42 U.S.C. 406(d), 406(e), and 1383(d)(2).)

The Act initially set the dollar limit at $75 in 2004 and provides that the limit will be adjusted annually based on changes in the cost-of-living. (Sections 206(d)(2)(A) and 1631(d)(2)(C)(ii)(I) of the Act, 42 U.S.C. 406(d)(2)(A) and 1383(d)(2)(C)(ii)(I).) The maximum dollar limit for the assessment currently is $89, as we announced in the **Federal Register** on November 05, 2013 (78 FR 66413).

The Act requires us each year to set the assessment percentage rate at the lesser of 6.3 percent or the percentage rate necessary to achieve full recovery of the costs we incur to determine and pay representatives' fees. (Sections 206(d)(2)(B)(ii) and 1631(d)(2)(C)(ii)(II) of the Act, 42 U.S.C. 406(d)(2)(B)(ii) and 1383(d)(2)(C)(ii)(II).)

Based on the best available data, we have determined that the current rate of 6.3 percent will continue for 2014. We will continue to review our costs for these services on a yearly basis.

Dated: December 26, 2013.

**Pete Spencer,**

*Deputy Commissioner for Budget, Finance, Quality, and Management.*

[FR Doc. 2013–31438 Filed 12–31–13; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2013–08]**

### Petition for Exemption; Summary of Petition Received

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

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before January 22, 2014.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2013–0810 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility 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.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility 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:** Theresa White, ANM–113, Standardization Branch, Transport Airplane Directorate, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057; email: *theresa.j.white@faa.gov;* (425) 227–2956; Sandra Long, ARM–201, Office of Rulemaking, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591; email: *sandra.long@faa.gov;* (202) 493–5245.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on December 27, 2013.

**Lirio Liu,**

*Director, Office of Rulemaking.*

**Petition for Exemption**

*Docket No.:* FAA–2013–0810.

*Petitioner:* Embraer.

*Section of 14 CFR Affected:* 14 CFR § 25.562(b), at Amendment 64; § 25.785(b) at Amendment 88; and Special Conditions 25–495–SC, number 2(e).

*Description of Relief Sought:* The Petitioner request relief from the regulatory requirements and special conditions, to allow for the installation of lateral single and multiple side-facing seats in the initial 55 production EMB–550 airplanes without meeting the new criteria for side-facing seats.

[FR Doc. 2013–31396 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Announcement To Amend the Outdoor Advertising Federal/State Agreements

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** This notice announces the process for amending the outdoor advertising agreements between the States and the Secretary of Transportation acting by and through the Federal Highway Administrator, commonly known as the Federal/State Agreements.

**FOR FURTHER INFORMATION CONTACT:** For questions about the program discussed herein, contact Dawn Horan, FHWA Office of Real Estate Services, (202) 366–4842, or via email at *Dawn.M.Horan@dot.gov.* For legal questions, please contact Bob Black, FHWA Office of the Chief Counsel, (202) 366–1359, or via email at *Robert.Black@dot.gov.* Business hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

You may retrieve a copy of the notice through the Federal eRulemaking portal at: *http://www.regulations.gov.* The Web site is available 24 hours each day, every day of the year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from Office of the Federal Register's home page at: *http://www.archives.gov/federal_register* and the Government Printing Office's Web page at: *http://www.gpoaccess.gov.*

**Background**

Congress enacted the Highway Beautification Act of 1965 (HBA) to control the erection and maintenance of outdoor advertising signs adjacent to certain Federal-aid highways in order to protect the public investment in such highways, promote the safety and recreational value of public travel, and preserve natural beauty (23 U.S.C. 131). 23 U.S.C. 131 required each State to enter into a Federal/State Agreement that includes specific outdoor advertising parameters that States must adhere to. These Federal/State Agreements were written in the late 1960's and early 1970's and most have not been amended since the original agreements were executed. Accordingly, we believe it is timely to review whether these Federal/State Agreements are consistent with the State's current outdoor advertising objectives and address the evolving technology being used or that could be used in the future by the outdoor advertising industry.

**Purpose of This Notice**

The purpose of this notice is twofold: (1) To encourage States to work with their FHWA Division Offices to amend their Federal/State Agreements, and (2) to describe the next steps in the Federal/State Agreement amendment process.

**Planned Process**

The following is the proposed process to amend the Federal/State Agreements. Key milestones include:

1. State initiates Federal/State Agreement amendment process by notifying their FHWA Division Office they would like to begin this process.
2. State works with their FHWA Division Office to outline the methods for public and stakeholder outreach and participation, including any State requirements, during the process to amend the Federal/State Agreement.
3. State works with their FHWA Division Office to draft an amended Federal/State Agreement.
4. State submits the Federal/State Amendment modification proposal in writing, including full justification for all changes, to the FHWA Division Offices.
5. State works with their FHWA Division Office to fulfill the public process outlined as well as consider all comments submitted.
6. State submits Final Draft Federal/State Agreement for FHWA Division Office and FHWA Headquarters review.
7. Amended Federal/State Agreement executed between the State and the Secretary of Transportation acting by and through the Federal Highway Administrator.

Issued on: December 20, 2013.

**Victor M. Mendez,**

*Administrator.*

[FR Doc. 2013–31233 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–22–P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Limitation on Claims Against Proposed Public Transportation Projects

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the following locations: Mesa, AZ; Azusa, CA; San Francisco, CA; and New York, NY. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

**DATES:** By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before June 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation

projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register.** The projects and actions that are the subject of this notice are:

1. *Project name and location:* Gilbert Road Light Rail Transit Extension, Mesa, AZ. *Project sponsor:* Valley Metro. *Project description:* The proposed project will construct a 1.9-mile light rail extension to the region's light rail system from the future eastern terminus near the intersection of Main Street/Mesa Drive (part of the Central Mesa Extension project currently under construction) east to the intersection of Main Street/Gilbert Road, in Mesa. Valley Metro will construct two stations and a new park-and-ride facility near the Main Street/Gilbert Road station. *Final agency actions:* Section 4(f) *de minimis* impact determination; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated November 15, 2013. *Supporting documentation:* Environmental Assessment, dated June 2013.

2. *Project name and location:* Azusa Intermodal Transit Facility Project, Azusa, CA. *Project sponsor:* Foothill Transit. *Project description:* The proposed project would construct an approximately 36 to 38-foot tall parking structure with up to 550 parking spaces, including rooftop parking. The proposed project also includes four bus bays for loading and unloading passengers and for layovers. An additional bus bay may include space for an electric bus charging station. The parking structure would be located north of the Azusa Civic Center and adjacent to the planned Los Angeles County Metropolitan Transportation Authority Gold Line (Metro Gold Line) Foothill Extension Azusa-Alameda Station. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated November 29, 2013. *Supporting documentation:* Environmental Assessment, dated July 2013.

3. *Project name and location:* Van Ness Bus Rapid Transit Project, San Francisco, CA. *Project sponsor:* San Francisco County Transportation Authority (SFCTA), in coordination with San Francisco Municipal Transportation Agency (SFMTA). *Project description:* The proposed project would convert two mixed-flow traffic lanes (one southbound and one northbound) into two dedicated transit lanes and implement bus rapid transit (BRT) service on Van Ness Avenue, extending approximately two miles from Mission Street in the south to Lombard Street in the north. The project would also replace the Overhead Contact System support poles/streetlights from Mission Street north to North Point Street and include street-scaping throughout the corridor. The project proposes consolidation and removal of existing bus stops in each direction to reduce dwell time delays and improve service reliability. The project includes nine northbound and nine southbound center lane stations. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Record of Decision (ROD), dated December 20, 2013. *Supporting documentation:* Final Environmental Impact Statement/Environmental Impact Report, dated July 2013.

4. *Project name and location:* East Side Access, New York, NY. *Project sponsor:* Metropolitan Transportation Authority (MTA). *Project description:* The East Side Access Project will connect the Long Island Rail Road's (LIRR) Main and Port Washington Lines in Queens to a new LIRR terminal beneath Grand Central Terminal in Manhattan. The MTA evaluated various project changes in six previous technical memoranda. In Technical Memorandum No. 7, the MTA proposed to extend the use of the 37th Street shafts for tunnel access, including materials and concrete delivery and personnel access, until the second quarter of 2016. This notice only applies to the discrete action taken by FTA at this time, as described below. Nothing in this notice affects FTA's previous decisions, or notice thereof, for this project. *Final agency actions:* FTA determination that neither a supplemental environmental impact statement nor a supplemental environmental assessment is necessary. *Supporting documentation:* Technical Memorandum No. 7—37th Street Shaft—Construction Access, dated September 2013.

**Lucy Garliauskas,**

*Associate Administrator Planning and Environment.*

[FR Doc. 2013–31395 Filed 12–31–13; 8:45 am]

BILLING CODE P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0105; Notice 1]**

### Notice of Receipt of Petition for Decision that Nonconforming 1994 and 1997 Westfalia 14 Foot Double Axle Cargo Trailers Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1994 and 1997 Westfalia 14 Foot Double Axle Cargo Trailers that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

**DATES:** The closing date for comments on the petition is February 3, 2014.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between

9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* 202–493–2251.

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*How to Read Comments submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

**SUPPLEMENTARY INFORMATION:**

## Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle, including a trailer, that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Wallace Environmental Testing Laboratories, Inc. (WETL) of Houston, Texas (Registered Importer R–90–005) has petitioned NHTSA to decide whether nonconforming 1994 and 1997 Westfalia 14 Foot Double Axle Cargo Trailers are eligible for importation into the United States. WETL believes these vehicles are capable of being modified to meet all applicable FMVSS.

WETL submitted information with its petition intended to demonstrate that 1994 and 1997 Westfalia 14 Foot Double Axle Cargo Trailers are capable of being altered to comply with all standards to which they were not originally manufactured to conform.

The petitioner contends that the nonconforming 1994 and 1997 Westfalia 14 Foot Double Axle Cargo Trailers are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of conforming Turn Signals, Stop Lamps, Side Marker Lamps, Reflex Reflectors, and a License Plate Lamp in a manner consistent with requirements of the standard.

Standard No. 119 *New Pneumatic Tires for Vehicles other than Passenger Cars:* installation of tire and rim combinations meeting the vehicle's gross vehicle and gross axle weight ratings (GVWR and GAWR) and other requirements of the standard if the vehicle is not already so equipped.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars:* installation of a tire information placard conforming with the standard and inspection and replacement of any nonconforming rims with ones conforming to the standard.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.95 and 501.8.

Issued on: December 27, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–31397 Filed 12–31–13; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF THE TREASURY

### Privacy Act of 1974; Systems of Records

**AGENCY:** Department of the Treasury.

**ACTION:** Notice of systems of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department is publishing its Privacy Act systems of records.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a and the Office of Management and Budget (OMB) Circular No. A–130, the Department has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records. Minor changes throughout the document are editorial in nature and consist principally of changes to system locations, system manager addresses, and revisions to organizational titles. The Treasury-wide notices were last published in their entirety on September 7, 2010, at 75 FR 54423.

Treasury .004 Freedom of Information Act/Privacy Act Request Records has been updated to include a new routine use statement in accordance with FOIA (5 U.S.C. 552) to create Office of Government Information Services (OGIS) within the National Archives and Records Administration ''(10) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(b), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.''

Treasury .007 Personnel Security System has been updated to include records pertaining to current and former United States Executive Directors and Alternates at International Financial

Institutions; identify Office of Personnel Management and select Department of the Treasury bureaus that conduct personnel security investigations; elaborate on types of information used in Homeland Security Presidential Directive 12 Personal Identity Verification (HSPD–12 PIV) determinations and for granting security clearances, i.e., individual's name, former names and aliases, date and place of birth, social security number, height, weight, hair and eye color, gender, mother's maiden name, current and former home addresses, phone numbers, and mail addresses, employment history, military record information, selective service registration record, residential history, education and degrees earned, names of associates and reference with their contact information, citizenship, passport information, criminal history, civil court actions, prior security clearance and investigative information, mental health history, records related to drug and/or alcohol use, financial record information, information from the IRS pertaining to income tax returns, credit reports, spouse or cohabitant name/date and place of birth, social security and citizenship, marriage information for current and former spouse(s), information on foreign contacts and activities, association records, information on loyalty to the United States, and other agency reports furnished to Treasury in connection with the background investigation process; inclusion of completed Security Orientation Acknowledgement (TDF 15–05.1) in security files; and referenced use of the Electronic Personnel Security Questionnaires (E–QIP) as means by which employee identifies information for use in the conduct of a background investigation for suitability and/or security clearance determination.

The Department of the Treasury terminated a system of records, Treasury .008 Emergency Management System (September 7, 2010 at 75 FR 54435) and records were retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules.

Three systems of record have been amended or added to the Department's inventory of Privacy Act notices since September 7, 2010, as follows: Treasury .014—User Profile Services (November 15, 2012 at 77 FR 68204); Treasury .013 Department of the Treasury Civil Rights Complaints and Compliance Review Files (September 8, 2011 at 76 FR 55737); Treasury .004 Freedom of Information Act/Privacy Act Request Records (April 29, 2011 at 76 FR 24085).

The systems notices are reprinted in their entirety following the Table of Contents. Systems covered by this notice:

This notice covers all systems of records maintained by the Departmental of the Treasury as of January 2, 2014. The system notices are reprinted in their entirety following the Table of Contents.

Dated: December 13, 2013.

**Helen Goff Foster,**

*Deputy Assistant Secretary for Privacy, Transparency, and Records, Department of the Treasury.*

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Treasury .001—Treasury Payroll and Personnel System
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Treasury .014—Department of the Treasury SharePoint User Profile Services

## TREASURY .001

### SYSTEM NAME:

Treasury Personnel and Payroll System—Treasury.

### SYSTEM LOCATION:

The Shared Development Center of the Treasury Personnel/Payroll System is located at 1750 Pennsylvania Avenue NW., Suite 1300, Washington, DC 20220. The Treasury Personnel System processing site is located at the Internal Revenue Service Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226. The Treasury Payroll processing site is located at the United States Department of Agriculture National Finance Center, 13800 Old Gentilly Road, New Orleans, LA 70129.

The locations at which the system is maintained by all Treasury components and their associated field offices are:

(1) Departmental Offices (DO):

a. 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street SW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): Avery Street Building, 320 Avery Street, Parkersburg, WV.

(8) Bureau of Public Debt (BPD): 999 E Street NW., Washington, DC 20239.

(9) Financial Crimes Enforcement Network (FinCEN), Vienna, VA 22183–0039.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Employees, former employees, and applicants for employment, in all Treasury Department bureaus and offices. (2) Employees, former employees, and applicants for employment of Federal agencies for which the Treasury Department is a cross-services provider.

### CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in this system includes such data as: (1) Employee identification and status data such as name, records that establish an individual's identity, social security number, date of birth, sex, race and national origin designator, awards received, suggestions, work schedule, type of appointment, education, training courses attended, veterans preference, and military service; (2) employment data such as service computation for leave, date probationary period began, date of performance rating, performance contract, and date of within-grade increases; (3) position and pay data such as position identification number, pay plan, step, salary and pay basis, occupational series, organization location, and accounting classification codes; (4) payroll data such as earnings (overtime and night differential), deductions (Federal, state and local taxes, bonds and allotments), and time and attendance data; (5) employee retirement and Thrift Savings Plan data;

(6) employment history, and (7) tables of data for editing, reporting and processing personnel and pay actions. These include nature of action codes, civil service authority codes, standard remarks, signature block table, position title table, financial organization table, and salary tables.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 31 U.S.C. 321; Homeland Security Presidential Directive 12 (HSPD–12), and Treasury Directive 80–05, Records and Information Management Program.

**PURPOSE(S):**

The purposes of the system include, but are not limited to: (1) Maintaining current and historical payroll records that are used to compute and audit pay entitlement; to record history of pay transactions; to record deductions, leave accrued and taken, bonds due and issued, taxes paid; maintaining and distributing Leave and Earnings statements; commence and terminate allotments; answer inquiries and process claims; and (2) maintaining current and historical personnel records and preparing individual administrative transactions relating to education and training; classification; assignment; career development; evaluation; promotion, compensation, separation and retirement; making decisions on the rights, benefits, entitlements and the utilization of individuals; providing a data source for the production of reports, statistical surveys, rosters, documentation, and studies required for the orderly personnel administration within Treasury; (3) maintaining employment history; and (4) perform personnel and payroll functions for Federal agencies for which Treasury is a cross-services provider and to conduct activities necessary to carry-out the official HR line of business for all Federal departments and agencies that are serviced by the National Finance Center (NFC).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Furnish data to the Department of Agriculture, National Finance Center (which provides payroll and personnel processing services for Treasury under a cross-servicing agreement) affecting the conversion of Treasury employee payroll and personnel processing services; the issuance of paychecks to employees and distribution of wages; and the distribution of allotments and deductions to financial and other institutions, some through electronic funds transfer;

(2) Furnish the Internal Revenue Service and other jurisdictions which are authorized to tax employees' compensation with wage and tax information in accordance with a withholding agreement with the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520, for the purpose of furnishing employees with IRS Forms W–2 that report such tax distributions;

(3) Provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and regulations;

(4) Furnish another Federal agency with information necessary or relevant to effect interagency salary or administrative offset, except that addresses obtained from the Internal Revenue Service shall not be disclosed to other agencies; to furnish a consumer reporting agency information to obtain commercial credit reports; and to furnish a debt collection agency information for debt collection services. Current mailing addresses acquired from the Internal Revenue Service are routinely released to consumer reporting agencies to obtain credit reports and are arguably relevant to debt collection agencies for collection services;

(5) Disclose information to a Federal, state, local, or foreign agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, that has requested information relevant to or necessary to the requesting agency's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(6) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation or settlement negotiations in response to a subpoena where arguably relevant to a proceeding, or in connection with criminal law proceedings;

(7) Disclose information to foreign governments in accordance with formal or informal international agreements;

(8) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(9) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relates to civil and criminal proceedings;

(10) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(11) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(12) Provide wage and separation information to another agency, such as the Department of Labor or Social Security Administration, as required by law for payroll purposes;

(13) Provide information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state employment compensation board, housing administration agency, and Social Security Administration;

(14) Disclose pertinent information to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation of, or for implementing, a statute, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law or regulation;

(15) Disclose information about particular Treasury employees to requesting agencies or non-Federal entities under approved computer matching efforts, limited only to those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Department of the Treasury or any constituent unit of the Department, to improve program integrity, and to collect debts and other money owed under those programs (e.g., matching for delinquent loans or other indebtedness to the government);

(16) Disclose to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, the names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees, for the purposes of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement activities as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193);

(17) Disclose information to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or

other assignment for the Department of the Treasury, when necessary to accomplish an agency Function;

(18) Disclose information to other Federal agencies with whom the Department has entered into a cross servicing agreement that provides for the delivery of automated human resources operations. These operations may include maintaining current and historical payroll and personnel records, and providing reports, statistical surveys, rosters, documentation, and studies as required by the other federal agency to support its personnel administration activities; and

(19) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures may be made pursuant to 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, Public Law 97–365; debt information concerning a government claim against an individual is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt. Disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 701(a)(3).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic records, microfiche, and hard copy. Disbursement records are stored at the Federal Records Center.

**RETRIEVABILITY:**

Records are retrieved generally by social security number, position identification number within a bureau/agency and sub-organizational element, employee identification or employee name. Secondary identifiers are used to assure accuracy of data accessed, such as master record number or date of birth.

**SAFEGUARDS:**

Entrances to data centers and support organization offices are restricted to those employees whose work requires them to be there for the system to operate. Identification (ID) cards are verified to ensure that only authorized personnel are present. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed. Reports produced from the remote printers are in the custody of personnel and financial management officers and are subject to the same privacy controls as other documents of similar sensitivity.

**RETENTION AND DISPOSAL:**

The current payroll and personnel system and the personnel and payroll system's master files are kept as electronic media. Information rendered to hard copy in the form of reports and payroll information documentation is also retained in an electronic media format. Employee records are retained in automated form for as long as the employee is active on the system (separated employee records are maintained in an ''inactive'' status). Files are purged in accordance with Treasury Directive 80–05, ''Records and Information Management Program.''

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of the Treasury: Official prescribing policies and practices: Chief Human Capitol Officer/Deputy Assistant Secretary for Human Resources, 1750 Pennsylvania Avenue NW., Washington, DC 20220.

The systems managers for the Treasury components are:

(1) a. DO: Deputy Assistant Secretary for Human Resources/Chief Human Capital Officer, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

b. OIG: Personnel Officer, 740 15th Street NW., Suite 500, Washington, DC 20220.

c. TIGTA: Director, Human Resources, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

(2) TTB: Chief, Personnel Division, 1310 G St. NW., Washington, DC 20220.

(3) OCC: Director, Human Resources, 250 E Street SW., Washington, DC 20219.

(4) BEP: Chief, Office of Human Resources, 14th & C Streets SW., Room 202–13A, E&P Annex, Washington, DC 20228.

(5) FMS: Director, Personnel Management Division, 3700 East West Hwy, Room 115–F, Hyattsville, MD 20782.

(6) IRS: Associate Director, Transactional Processing Operations, 1111 Constitution Avenue NW., CP6, A:PS:TP, 2nd Floor, Washington, DC 20224.

(7) MINT: Assistant Director for Human Resources, 801 9th Street NW., 7th Floor, Washington, DC 20220.

(8) BPD: Director, Human Resources Operations Division, Avery Street Building, 320 Avery Street, Parkersburg, WV.

(9) FinCEN: Chief of Personnel and Training, Vienna, VA 22183–0039.

A list of the Federal agencies for which Treasury is a cross-services provider and their respective system managers may be obtained by contacting the Chief Human Capitol Officer/Deputy Assistant Secretary for Human Resources, at the address shown above.

**NOTIFICATION PROCEDURE:**

(1) Employees, former employees or applicants of the Department of the Treasury seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–L.

(2) Employees of other Federal agencies for which Treasury is a cross-services provider may request notification, access and amendment of their records through the personnel office at their home agency. (See ''System manager'' above.)

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

The information contained in these records is provided by or verified by the subject of the record, supervisors, and non-Federal sources such as private employers.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .002

**SYSTEM NAME:**

Grievance Records—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington,

DC 20220. These records are located in personnel or designated offices in the bureaus in which the grievances were filed.

The locations at which the system is maintained are:

(1) a. Departmental Offices (DO): 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program (SIGTARP), 1801 L. Street NW., Washington, DC 20036.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G. St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street NW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(8) Bureau of the Public Debt (BPD): Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(9) Financial Crimes Enforcement Network (FinCEN), Vienna, VA 22183–0039.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current or former Federal employees who have submitted grievances with their bureaus in accordance with part 771 of the Office of Personnel Management's (OPM) regulations (5 CFR part 771), the Treasury Employee Grievance System (TPM Chapter 771), or a negotiated procedure.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains records relating to grievances filed by Treasury employees under part 771 of the OPM's regulations. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that bureaus and/or the Department may establish through negotiations with recognized labor organizations.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 1302, 3301, 3302; E.O. 10577; 3 CFR 1954–1958 Comp., p. 218; E.O. 10987; 3 CFR 1959–1963 Comp., p. 519; agency employees, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

**PURPOSE(S):**

To adjudicate employee administrative grievances filed under the authority of 5 CFR part 771 and the Department's Administrative Grievance Procedure.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used:

(1) To disclose pertinent information to the appropriate Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) To disclose information to any source from which additional information is requested in the course of processing in a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested;

(3) To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter;

(4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court;

(6) By the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2908;

(7) By the bureau maintaining the records of the Department in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference;

(8) To disclose information to officials of the Merit Systems Protection Board, the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, the Equal Employment Opportunity Commission, or the Office of Personnel Management when requested in performance of their authorized duties;

(9) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing Counsel or witnesses in the course of civil discovery, litigation or settlement negotiations in response to a court order, or in connection with criminal law proceedings;

(10) To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

(11) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

File folders.

**RETRIEVABILITY:**

By the names of the individuals on whom they are maintained.

**SAFEGUARDS:**

Lockable metal filing cabinets to which only authorized personnel have access.

**RETENTION AND DISPOSAL:**

Disposed of 3 years after closing of the case. Grievances filed against disciplinary adverse actions are retained by the United States Secret Service for 4 years. Disposal is by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Records pertaining to administrative grievances filed at the Departmental level: Director, Office of Human Resources Strategy and Solutions, 1750 Pennsylvania Ave. NW., Suite 1200, Washington, DC 20220. Records pertaining to administrative grievances filed at the bureau level:

(1) a. DO: Director, Office of Human Resources for Departmental Offices, 1500 Pennsylvania Ave. NW., Room 5202-Main Treasury, Washington, DC 20220.

b. OIG: Personnel Officer, 740 15th St. NW., Rm. 510, Washington, DC 20220.

c. TIGTA: Director, Human Capital and Support Services, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) OCC: Director, Human Resources, 250 E Street SW., Washington, DC 20219.

(4) BEP: Chief, Office of Human Resources, 14th & C Streets SW., Room 202–13A, E&P Annex, Washington, DC 20228.

(5) FMS: Director, Personnel Management Division, 3700 East West Hwy, Room 115–F, Hyattsville, MD 20782.

(6) IRS: Director, Office of Workforce Relations (M:S:L), 1111 Constitution Ave. NW., Room 1515IR, Washington, DC 20224.

(7) Mint: Assistant Director for Human Resources, 801 9th Street NW., 3rd Floor, Washington, DC 20220.

(8) BPD: Director, Human Resources Operations Division, Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(9) FinCEN: Director, P.O. Box 39, Vienna, VA 22183–0039.

**NOTIFICATION PROCEDURE:**

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the agency personnel or designated office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified: (1) Name, (2) date of birth, (3) approximate date of closing of the case and kind of action taken, (4) organizational component involved.

**RECORD ACCESS PROCEDURES:**

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the bureau personnel or designated office where the action was processed. Individuals must provide the following information for their records to be located and identified: (1) Name, (2) date of birth, (3) approximate date of closing of the case and kind of action taken, (4) organizational component involved.

**CONTESTING RECORD PROCEDURES:**

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the bureau personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified: (1) Name, (2) date of birth, (3) approximate date of closing of the case and kind of action taken, (4) organizational component involved.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is provided: (1) By the individual on whom the record is maintained, (2) by testimony of witnesses, (3) by agency officials, (4) from related correspondence from organizations or persons.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .003

**SYSTEM NAME:**

Treasury Child Care Tuition Assistance Records—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220. The locations at which the system is maintained by Treasury components are:

(1) a. Departmental Offices (DO): 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program (SIGTARP), 1801 L. Street NW., Washington, DC 20036.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street NW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(8) Bureau of the Public Debt (BPD): Avery Street Building, 320 Avery Street, Parkersburg, WV.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees of the Department of the Treasury who voluntarily apply for child care tuition assistance, the employee's spouse, their children and their child care providers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records may include application forms for child care tuition assistance containing personal information, including employee (parent) name, Social Security Number, pay grade, home and work numbers, addresses, telephone numbers, total family income, names of children on whose behalf the parent is applying for tuition assistance, each child's date of birth, information on child care providers used (including name, address, provider license number and State where issued, tuition cost, and provider tax identification number), and copies of IRS Form 1040 and 1040A for verification purposes. Other records may include the child's social security number, weekly expense, pay statements, records relating to direct

deposits, verification of qualification and administration for the child care tuition assistance.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Public Law 106–58, section 643 and E.O. 9397.

**PURPOSE(S):**

To establish and verify Department of the Treasury employees' eligibility for child care subsidies in order for the Department of the Treasury to provide monetary assistance to its employees. Records are also maintained so the Department can make payments to child care providers on an employee's behalf.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Department of the Treasury becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual;

(3) Disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed If a subpoena has been signed by a judge;

(4) Disclose information to the National Archives and Records Administration for use in records management inspections;

(5) Disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Department of the Treasury is authorized to appear, when: (a) The Department of the Treasury, or any component thereof; or (b) any employee of the Department of the Treasury in his or her official capacity; or (c) any employee of the Department of the Treasury in his or her individual capacity where the Department of Justice or the Department of the Treasury has agreed to represent the employee; or (d) the United States, when the Department of the Treasury determines that litigation is likely to affect the Department of the Treasury or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Department of the Treasury is deemed by the Department of the Treasury to be relevant and necessary to the litigation; provided, however, that the disclosure is compatible with the purpose for which records were collected;

(6) Provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, Federal Labor Relations Authority, the Office of Special Counsel, and General Accountability Office for the purpose of properly administering Federal personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and regulations;

(7) Disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant, or cooperative agreement, or job for the Federal Government;

(8) Disclose information to a court, magistrate, or administrative tribunal when necessary and relevant in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(9) Disclose information to unions recognized as exclusive bargaining representatives under 5 U.S.C. chapter 71, and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties.

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information may be collected on paper or electronically and may be stored as paper forms or on computers.

**RETRIEVABILITY:**

By name; may also be cross-referenced to Social Security Number.

**SAFEGUARDS:**

When not in use by an authorized person, paper records are stored in lockable file cabinets or secured rooms. Electronic records are protected by the use of passwords.

**RETENTION AND DISPOSAL:**

Disposition of records is according to the National Archives and Records Administration (NARA) guidelines.

**SYSTEM MANAGER(S) AND ADDRESS:**

Treasury official prescribing policies and practices: Director, Office of Human Resources Strategy and Solutions, 1750 Pennsylvania Ave. NW., Suite 1200, Department of the Treasury, Washington, DC 20220. Officials maintaining the system and records for the Treasury components are:

(1) DO:

a. Director, Office of Human Resources for Departmental Offices, 1500 Pennsylvania Ave. NW., Room 5202–MT, Washington, DC 20220.

b. Office of General Counsel: Administrative Officer, Department of the Treasury, Room 3000–MT, Washington, DC 20220.

c. OIG: Personnel Officer, 740 15th St. NW., Suite 510, Washington, DC 20220.

d. TIGTA: Director, Human Capital and Support Services, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

(2) TTB: Assistant Administrator, Office of Management, 1310 G St. NW., Washington, DC 20220.

(3) OCC: Director, Human Resources Division, Independence Square, 250 E St. SW., 4th Floor, Washington, DC 20219.

(4) BEP: Chief, Office of Human Resources. 14th & C St. SW., Room 202–13a, Washington, DC 20228.

(5) FMS: Director, Human Resources Division, PG Center II Bldg, Rm. 114f, 3700 East West Highway, Hyattsville, MD 20782.

(6) IRS: Director Personnel Policy Division, 1111 Constitution Ave., Building CP6–M:S:P, Washington, DC 20224.

(7) MINT: Assistant Director for Human Resources, 801 9th Street NW., 3rd Floor, Washington, DC 20220.

(8) BPD: Child Care Assistance Program (CCAP) Coordinator, Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–M.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Information is provided by Department of the Treasury employees who apply for child care tuition assistance.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .004

**SYSTEM NAME:**

Freedom of Information Act/Privacy Act Request Records—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The locations at which the system is maintained by Treasury components and their associated field offices are:

(1) Departmental Offices (DO), which includes the Office of Inspector General (OIG), the Community Development Financial Institutions Fund (CDFI), and Special Inspector General for the Troubled Asset Relief Program (SIGTARP);

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB);

(3) Office of the Comptroller of the Currency (OCC);

(4) Bureau of Engraving and Printing (BEP);

(5) Financial Management Service (FMS);

(6) United States Mint (MINT);

(7) Bureau of the Public Debt (BPD);

(8) Financial Crimes Enforcement Network (FinCEN); and

(9) Treasury Inspector General for Tax Administration (TIGTA).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have: (1) Requested access to records pursuant to the Freedom of Information Act, *5 U.S.C. 552* (FOIA), or who have appealed initial denials of their requests; and/or (2) made a request for access, amendment, or other action pursuant to the Privacy Act of 1974, *5 U.S.C. 552a* (PA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Requests for records or information pursuant to the FOIA/PA, which includes the names of individuals making written or electronically submitted requests for records under the FOIA/PA; the contact information of the requesting individual such as their mailing address, email address, and/or phone number; and the dates of such requests and their receipt. Supporting records include the written correspondence received from requesters and responses made to such requests; internal processing documents and memoranda; referrals and copies of records provided or withheld; and may include legal memoranda and opinions. Comparable records are maintained in this system with respect to any appeals made from initial denials of access, refusal to amend records, and lawsuits under the FOIA/PA.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Freedom of Information Act, *5 U.S.C. 552;* Privacy Act of 1974, *5 U.S.C. 552a;* and *5 U.S.C. 301*.

**PURPOSE(S):**

The system is used by officials to administratively control and/or process requests for records to ensure compliance with the FOIA/PA and to collect data for the annual reporting requirements of the FOIA and other Departmental management report requirements. In addition, the system allows for online submission to expedite the consideration of requests.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, foreign, State, local, tribal or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court order, or in connection with criminal law proceedings;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to another Federal agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(5) Disclose information to the Department of Justice when seeking legal advice, or when (a) the agency, or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(6) Disclose information to the appropriate foreign, State, local, tribal, or other public authority or self-regulatory organization for the purpose of (a) consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or (b) verifying the identity of an individual who has requested access to or amendment or correction of records;

(7) Disclose information to contractors and other agents who have been engaged by the Department or one of its bureaus to provide products or services associated with the Department's or bureaus' responsibilities arising under the FOIA/PA;

(8) Disclose information to the National Archives and Records Administration for use in records management inspections;

(9) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the

Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(10) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(b), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic media, computer paper printout, index file cards, and paper records in file folders.

**RETRIEVABILITY:**

Retrieved by name, subject, request file number, or other data element as may be permitted by an automated system.

**SAFEGUARDS:**

Protection and control of any sensitive but unclassified (SBU) records are in accordance with Treasury Directive Publication 71–10, Department of the Treasury Security Manual; DO P–910, Departmental Offices Information Technology Security Policy Handbook; Treasury Directive Publication 85–01, Treasury Information Technology Security Program; National Institute of Standards and Technology 800–122 and any supplemental guidance issued by individual bureaus; the National Institute of Standards and Technology Special Publication 800–53 Revision 3, Recommended Security Controls for Federal Information Systems and Organizations; and Guide to Protecting the Confidentiality of Personally Identifiable Information. Access to the records is available only to employees responsible for the management of the system and/or employees of program offices who have a need for such information.

**RETENTION AND DISPOSAL:**

The records pertaining to FOIA/PA requests are retained and disposed of in accordance with the National Archives and Records Administration's General Record Schedule 14—Information Services Records.

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of the Treasury: Official prescribing policies and practices—Departmental Disclosure Officer, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The system managers for the Treasury components are:

(1) a. DO: Director, Disclosure Services, Department of the Treasury, Washington, DC 20220.

b. OIG: Director, Disclosure Services, Department of the Treasury, Washington, DC 20220.

c. CDFI: Director, Disclosure Services, Department of the Treasury, Washington, DC 20220.

d. SIGTARP: Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) BEP: Disclosure Officer, FOIA Office, 14th & C Streets SW., Washington, DC 20228.

(4) FMS: Disclosure Officer, 401 14th Street SW., Washington, DC 20227.

(5) Mint: Disclosure Officer, 801 9th Street NW., 8th Floor, Washington, DC 20220.

(6) OCC: Disclosure Officer, Communications Division, Washington, DC 20219.

(7) BPD: Information Disclosure Officer, Avery Street Building, 320 Avery Street, Parkersburg, WV.

(8) FinCEN: P.O. Box 39, Vienna, VA 22182.

(9) TIGTA: Director, Human Capital and Support Services, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at *31 CFR part 1*, subpart C, appendices A–M.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

The information contained in these files originates from individuals who make FOIA/PA requests and agency officials responding to those requests.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None. Please note that the Department has claimed one or more exemptions (see *31 CFR 1.36*) for a number of its other systems of records under *5 U.S.C. 552*a(j)(2) and (k)(1), (2), (3), (4), (5), and (6). During the course of a FOIA/PA action, exempt materials from those other systems may become a part of the case records in this system. To the extent that copies of exempt records from those other systems have been recompiled and/or entered into these FOIA/PA case records, the Department claims the same exemptions for the records as they have in the original primary systems of records of which they are a part.

## TREASURY .005

**SYSTEM NAME:**

Public Transportation Incentive Program Records—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The locations at which the system is maintained by Treasury bureaus and their associated field offices are:

(1) a. Departmental Offices (DO): 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program (SIGTARP), 1801 L Street NW., Washington, DC 20036.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street SW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th St. NW., Washington, DC 20220.

(8) Bureau of the Public Debt (BPD): Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(9) Financial Crimes Enforcement Network (FinCEN), Vienna, VA 22182.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees who have applied for or who participate in the Public Transportation Incentive Program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Public Transportation Incentive Program application form containing the participant's name, last four digits of the social security number, or for IRS employees the Standard Employee Identifier (SEID) issued by the IRS, place of residence, office address, office telephone, grade level, duty hours, previous method of transportation, costs of transportation, and the type of fare incentive requested. Incentives authorized under the Federal Workforce Transportation Program may be included in this program.

(2) Reports submitted to the Department of the Treasury in accordance with Treasury Directive 74–10.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 26 U.S.C. 132(f), and Public Law 101–509.

**PURPOSE(S):**

The records are used to administer the public transportation incentive or subsidy programs provided by Treasury bureaus for eligible employees. The system also enables the Department to compare these records with other Federal agencies to ensure that employee transportation programs benefits are not abused.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order or license;

(2) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and/or 7114;

(5) Agencies, contractors, and others to administer Federal personnel or payroll systems, and for debt collection and employment or security investigations;

(6) Other Federal agencies for matching to ensure that employees receiving PTI Program benefits are not listed as a carpool or vanpool participant, the holder of a parking permit; and to prevent the program from being abused;

(7) The Department of Justice when seeking legal advice, or when (a) the Department of the Treasury (agency) or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(8) The Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and the Federal Labor Relations Authority or other third parties when mandated or authorized by statute; and

(9) A contractor for the purpose of compiling, organizing, analyzing, programming, or otherwise refining records to accomplish an agency function subject to the same limitations applicable to U.S. Department of Treasury officers and employees under the Privacy Act;

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records, file folders and/or electronic media.

**RETRIEVABILITY:**

By name of individual, badge number or office.

**SAFEGUARDS:**

Access is limited to authorized employees. Files are maintained in locked safes and/or file cabinets. Electronic records are password-protected. During non-work hours, records are stored in locked safes and/or cabinets in locked room.

**RETENTION AND DISPOSAL:**

Active records are retained indefinitely. Inactive records are held for three years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system managers for the Treasury bureaus are:

(1) Departmental Offices:

a. Director, Occupational Safety and Health Office, Room 6204 Annex, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. Office of Inspector General: Office of Assistant Inspector for Management Services, Office of Administrative Services, Suite 510, 740 15th St. NW., Washington, DC 20220.

c. TIGTA: Director, Human Capital and Support Services, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

(2) TTB: Alcohol and Tobacco Tax and Trade Bureau: 1310 G St. NW., Washington, DC 20220.

(3) BEP: Chief, Office of Human Resources, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, DC 20228.

(4) OCC: Building Manager, Building Services, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219–0001.

(5) FMS: Director, Administrative Programs Division, Financial Management Service, 3700 East West Hwy., Room 144, Hyattsville, MD 20782.

(6) IRS: Official prescribing policies and practices—Chief, National Office, Protective Program Staff, Director, Personnel Policy Division, 2221 S. Clark Street-CP6, Arlington, VA 20224. Officials maintaining the system—Supervisor of local offices where the records reside. (See IRS Appendix A for addresses.)

(7) Mint: Office of Management Services (OMS), 801 9th St. NW., 2nd Floor, Washington, DC 20220.

(8) BPD: Director, Division of Administrative Services, Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(9) FinCEN: Director, P.O. Box 39, Vienna, VA 22183–0039.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–M.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

The source of the data are employees who have applied for the transportation incentive, the incentive program managers and other appropriate agency officials, or other Federal agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .006

**SYSTEM NAME:**

Parking and Carpool Program Records—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The locations at which the system is maintained by Treasury bureaus and their associated field offices are:

(1) a. Departmental Offices (DO): 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program (SIGTARP), 1801 L Street NW., Washington, DC 20036.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street SW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(8) Bureau of the Public Debt (BPD): 799 E Street NW., Washington, DC 20239.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current employees of the Department and individuals from other Government agencies or private sector organizations who may use, or apply to use, parking facilities or spaces controlled by the Department. Individuals utilizing handicapped or temporary guest parking controlled by the Department.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records may include the name, position title, manager's name, organization, vehicle identification, arrival and departure time, home addresses, office telephone numbers, social security numbers, badge number, and service computation date or length of service with a component of an individual or principal carpool applicant. Contains name, place of employment, duty telephone, vehicle license number and service computation date of applicants, individuals or carpool members. For parking spaces, permit number, priority group (handicapped, job requirements/ executive officials (SES) or carpool/ vanpool). Medical information may also be included when necessary to determine disability of applicant when applying for handicapped parking spaces.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 44 U.S.C. 3101; Treasury Department Order No. 165, revised as amended. Federal Property and Administrative Services Act of 1949, as amended.

**PURPOSE(S):**

The records are used to administer parking, carpool and vanpool programs within the Department. The system enables the Department to allocate and check parking spaces assigned to government or privately-owned vehicles operated by visitors, handicapped personnel, key personnel, employees eligible to participate in a parking program and carpools or vanpools. The Department is also able to compare these records with other Federal agencies to ensure parking privileges or other employee transportation benefits are not abused.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(3) A physician for making a determination on a person's eligibility for handicapped parking;

(4) A contractor who needs to have access to this system of records to perform an assigned activity;

(5) Parking coordinators of Government agencies and private sector organizations for verification of employment and participation of pool members;

(6) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(7) Department of Justice when seeking legal advice, or when (a) the Department of the Treasury (agency) or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(8) Third parties when mandated or authorized by statute or when necessary to obtain information that is relevant to an inquiry concerned with the possible abuse of parking privileges or other employee transportation benefits;

(9) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where relevant or potentially relevant to a proceeding, and

(10) Officials of the Merit Systems Protection Board, the Federal Labor

Relations Authority, the Equal Employment Opportunity Commission or the Office of Personnel Management when requested in the performance of their authorized duties.

(11) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Hard copy and/or electronic media.

**RETRIEVABILITY:**

Name, address, social security number, badge number, permit number, vehicle tag number, and agency name or organization code on either the applicant or pool members as needed by a bureau. Records are filed alphabetically by location.

**SAFEGUARDS:**

Paper records are maintained in locked file cabinets. Access is limited to personnel whose official duties require such access and who have a need to know the information in a record for a job-related purpose. Access to computerized records is limited, through use of a password, to those whose official duties require access. Protection and control of sensitive but unclassified (SBU) records are in accordance with TD P 71–10, Department of the Treasury Security Manual, and any supplemental guidance issued by individual bureaus. The IRS access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

**RETENTION AND DISPOSAL:**

Generally, record maintenance and disposal is in accordance with NARA General Retention Schedule 11, and any supplemental guidance issued by individual components. Disposal of manual records is by shredding or burning; electronic data is erased. Destroyed upon change in, or revocation of, parking assignment. For the IRS, records are maintained in accordance with Records Control Schedule 301—General Records Schedule 11, Space and Maintenance Records, Item 4(a), IRM 1(15)59.31.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system managers for the Treasury components are:

(1) DO:

a. Director, Occupational Safety and Health Office, Room 6204 Annex, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. OIG: Director, Administrative Services Division, Office of Management Services, Room 510, 740 15th Street NW., Washington, DC 20220.

c. TIGTA: Director, Human Capital and Support Services, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

(2) TTB: Alcohol and Tobacco Tax and Trade Bureau: 1310 G St. NW., Washington, DC 20220.

(3) OCC: Building Manager, Building Services, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

(4) BEP: Chief, Office of Security, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, DC 20228.

(5) FMS: Director, Administrative Programs Division, 3700 East West Highway, Hyattsville, MD 20782.

(6) IRS: Chief, Security and Safety Branch; Regional Commissioners, District Directors, Internal Revenue Service Center Directors, and Computing Center Directors. (See IRS Appendix A for addresses.)

(7) MINT: Office of Management Services (OMS), 801 9th St. NW., 2nd Floor, Washington, DC 20220.

(8) BPD: Director, Washington Support Services, Bureau of the Public Debt, 799 E Street NW., Washington, DC 20239.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–M.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Parking permit applicants, members of carpools or vanpools, other Federal agencies, medical doctor if disability determination is requested.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .007

**SYSTEM NAME:**

Personnel Security System—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 3180 Annex, Washington, DC 20220 in the Office of Security Programs (and other office locations identified below) which is responsible for making suitability, fitness, security clearance, access, and Homeland Security Presidential Directive—12 (HSPD–12) credentialing decisions. Other locations at which the system is maintained by Treasury bureaus and their associated offices are:

(1) Departmental Offices (DO):

a. 1500 Pennsylvania Avenue NW., Room 3180 Annex, Washington, DC 20220.

b. Special Inspector General for the Troubled Asset Relief Program (SIGTARP): 1801 L Street NW., Washington, DC 20036.

(2) Office of Inspector General (OIG): 320 Avery Street Parkersburg, West Virginia 26101.

(3) Treasury Inspector General for Tax Administration (TIGTA): 1401 H Street NW., Suite 469, Washington, DC 20005.

(4) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G Street NW., Washington, DC 20220.

(5) Office of the Comptroller of the Currency (OCC): 400 7th Street SW., Washington, DC 20219.

(6) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(7) Bureau of the Fiscal Service (BFS): Security Operations Division, Personnel Security Branch, 3700 East West Highway, Hyattsville, Maryland and BFS at 320 Avery Street Parkersburg, West Virginia 26101.

(8) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(9) Financial Crimes Enforcement Network (FinCEN), Vienna, Virginia 22183–0039.

(10) Internal Revenue Service (IRS), 1111 Constitution Avenue NW., Washington, DC 20224.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Current and former government employees, applicants, consultants, experts, contractor personnel occupying sensitive positions in the Department; (2) current and former U.S. Executive Directors and Alternates employed at International Financial Institutions; (3) personnel who are appealing a denial or a revocation of a Treasury-issued security clearance; (4) employees and contractor personnel who have applied for the HSPD–12 Personal Identity Verification (PIV) Card; (5) individuals who are not Treasury employees, but who are or were involved in Treasury Department programs under a co-operative assignment or under a similar agreement, and State, Local, Tribal and Private sector partners identified by Treasury sponsors for eligibility to access classified information in support of homeland defense initiatives.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Applicable records containing the following information within background investigations relating to personnel investigations conducted by the Office of Personnel Management, select Treasury bureaus (IRS, Mint and BEP) and other Federal agencies and departments on a pre-placement and post-placement basis to make suitability, fitness, and HSPD–12 PIV determinations and for granting security clearances, i.e., individual's name, former names and aliases; date and place of birth; social security number; height; weight; hair and eye color; gender; mother's maiden name; current and former home addresses, phone numbers, and email addresses; employment history; military record information; selective service registration record; residential history; education and degrees earned; names of associates and references with their contact information; citizenship; passport information; criminal history; civil court actions; prior security clearance and investigative information; mental health history; records related to drug and/or alcohol use; financial record information; information from the IRS pertaining to income tax returns; credit reports; the name, date and place of birth, social security number, and citizenship information for spouse or cohabitant; the name and marriage information for current and former spouse(s); the citizenship, name, date and place of birth, and address for relatives; information on foreign contacts and activities; association records; information on loyalty to the United States; and other agency reports furnished to Treasury in connection with the background investigation process, and other information developed from the above; (2) summaries of personal and third party interviews conducted during the course of the background investigation; (3) previously used card index records comprised of Notice of Personnel Security Investigation (OS F 67–32.2); (4) signed Classified Information Non-disclosure Agreement (SF 311), and related supplemental documents for those persons issued a security clearance; (5) completed Security Orientation Acknowledgment (TD F 15–05.01) for persons having received initial security training on safeguarding classified information ; (6) an automated data system reflecting identification data on incumbents and former employees, disclosure and authorization forms, and record of investigations, level and date of security clearance, if any, as well as status of investigations; (7) records pertaining to suspensions or an appeal of a denial or a revocation of a Treasury-issued security clearance; (8) records pertaining to the personal identification verification process mandated by HSPD–12 and the issuance, denial or revocation of a PIV card; and (9) records of personnel background investigations conducted by other Federal agencies.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Sections 2 & 3, Executive Order 10450, Executive Order 12968, as amended, and HSPD–12.

**PURPOSE(S):**

(1) The records in this system are used to provide investigatory information for determinations concerning whether an individual is suitable or fit for Government employment; eligible for logical and physical access to Treasury controlled facilities and information systems; eligible to hold sensitive positions (including but not limited to eligibility for access to classified information); fit to perform work for or on behalf of the U.S. Government as a contractor; qualified to perform contractor services for the U.S. Government; or loyal to the United States; (2) additionally, these records are used to ensure the Treasury is upholding the highest standards of integrity, loyalty, conduct, and security among its employees and contract personnel; (3) the records may be used to help streamline and make the adjudicative process more efficient; and (4) to otherwise conform with applicable legal, regulatory and policy authorities.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

All or a portion of the Treasury records contained in this system may be used to disclose information to: (1) Designated officers and employees of agencies, offices, and other establishments in the executive, legislative and judicial branches of the Federal government, when such agency, office, or establishment conducts an investigation of the individual for purposes of granting a security clearance, or for the purpose of making a determination of qualifications, suitability, fitness, or issuance of an HSPD–12 PIV card for physical and/or logical access to facilities/IT systems or restricted areas; to determine access to classified information and/or in connection with performance of a service to the Federal government under a contract or other agreement; (2) pursuant to the order of a court of competent jurisdiction; (3) the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Department of the Treasury is authorized to appear, when: (a) the Department of the Treasury, or any component thereof; or (b) any employee of the Department of the Treasury in his or her official capacity; or (c) any employee of the Department of the Treasury in his or her individual capacity where the Department of Justice or the Department of the Treasury has agreed to represent the employee; or (d) the United States, when the Department of the Treasury determines that litigation is likely to affect the Department of the Treasury or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Department of the Treasury is deemed by the Department of the Treasury to be relevant and necessary to the litigation; provided, however, that the disclosure is compatible with the purpose for which records were collected; (4) a congressional office in response to a written inquiry made at the request of the individual to whom the record pertains; (5) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Treasury component which maintains the record specifying the particular portion desired and the law enforcement activity for which the

record is sought; (6) the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, Federal Labor Relations Authority, and the Office of Special Counsel for the purpose of properly administering Federal personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and regulations; and (7) to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with Treasury's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in paper format in file folders, on index cards, magnetic media and in electronic database in the Personnel Security System, and the e-QIP system.

**RETRIEVABILITY:**

Records are retrieved by name.

**SAFEGUARDS:**

Paper records are stored in locked metal containers and in locked rooms. Electronic records are password protected. Access is limited to authorized Treasury security officials who have a need to know in the performance of their official duties and whose background investigations have been favorably adjudicated before they are allowed access to the records.

**RETENTION AND DISPOSAL:**

The records on government employees and contractor personnel are retained for the duration of their employment at the Treasury Department. The records on applicants not selected and separated employees are destroyed or sent to the Federal Records Center in accordance with General Records Schedule 18.

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of the Treasury Official prescribing policies and practices: Director, Office of Security Programs, 1500 Pennsylvania Avenue NW., Room 3180 Annex, Washington, DC 20220.

The system managers for the Treasury bureau components are:

(1) Departmental Offices:

a. Chief, Personnel Security, 1500 Pennsylvania Avenue NW., Room 3180 Annex, Washington, DC 20220.

b. SIGTARP: Director, Human Resources, 1801 L Street NW., Washington, DC 20036.

(2) OIG: Personnel Officer, 740 15th Street NW., Suite 510, Washington, DC 20220.

(3) TIGTA: Personnel Security Officer, 1401 H Street NW., Suite 469, Washington, DC 20005.

(4) TTB: Alcohol and Tobacco Tax and Trade Bureau: Director of Security and Emergency Preparedness 1310 G Street NW., Washington, DC 20220.

(5) BFS: Director, Division of Security and Emergency Preparedness, Director, Division of Human Resources Operations Division, Avery Street Building, 320 Avery Street, Parkersburg, West Virginia 26101 and Director, Administrative Programs Division, 3700 East West Highway, Hyattsville, Maryland 20782.

(6) OCC: Director, Administrative Services Division, 400 7th Street SW., Washington, DC 20219.

(7) BEP: Chief, Office of Security, 14th & C Streets NW., Washington, DC 20228.

(8) Mint: Associate Director for Protection, 801 9th Street NW., 8th Floor, Washington, DC 20220.

(9) FinCEN: Director, Vienna, Virginia 22183–0039.

(10) IRS: Director, Personnel Security, 1111 Constitution Avenue NW., Washington, DC 20224.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–N.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

The information provided by individual employees, consultants, experts and contractors (including the results of in-person interviews) whose files are on record as authorized by those concerned, information obtained from current and former employers, co-workers, neighbors, acquaintances, educational records and instructors, and police and credit record checks.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (2), (3), and (4), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). (See 31 CFR 1.36.)

## TREASURY .009

**SYSTEM NAME:**

Treasury Financial Management Systems—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220. The locations at which the system is maintained by Treasury components and their associated field offices are:

(1) Departmental Offices (DO):

a. Office of Financial Management, Attn: Met Sq. Bldg., 6th Fl., 1500 Pennsylvania Avenue NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program (SIGTARP), 1801 L. Street NW., Washington, DC 20036.

e. Community Development Financial Institutions Fund (CDFI): 601 13th Street NW., Suite 200 South, Washington, DC 20005.

f. Federal Financing Bank (FFB): 1500 Pennsylvania Avenue NW., South Court One, Washington, DC 20220.

g. Office of International Affairs (IA): 1500 Pennsylvania Avenue NW., Room 5441D, Washington, DC 20220.

h. Treasury Forfeiture Fund: 740 15th Street NW., Suite 700, Washington, DC 20220.

i. Treasury Franchise Fund: Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street NW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(8) Bureau of the Public Debt (BPD): Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(10) Financial Crimes Enforcement Network (FinCEN), Vienna, VA 22183–0039.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Current and former Treasury employees, non-Treasury personnel on detail to the Department, current and former vendors, all debtors including employees or former employees; (2) persons paying for goods or services, returning overpayment or otherwise delivering cash; (3) individuals, private institutions and business entities who are currently doing business with, or who have previously conducted business with the Department of the Treasury to provide various goods and services; (4) individuals who are now or were previously involved in tort claims with Treasury; (5) individuals who are now or have previously been involved in payments (accounts receivable/revenue) with Treasury; and (6) individuals who have been recipients of awards. Only records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The financial systems used by the Treasury components to collect, maintain and disseminate information include the following types of records: Routine billing, payment, property accountability, and travel information used in accounting and financial processing; administrative claims by employees for lost or damaged property; administrative accounting documents, such as relocation documents, purchase orders, vendor invoices, checks, reimbursement documents, transaction amounts, goods and services descriptions, returned overpayments, or otherwise delivering cash, reasons for payment and debt, travel-related documents, training records, uniform allowances, payroll information, etc., which reflect amount owed by or to an individual for payments to or receipt from business firms, private citizens and or institutions. Typically, these documents include the individual's name, social security number, address, and taxpayer identification number. Records in the system also include employment data, payroll data, position and pay data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 3512, 31 U.S.C. 3711, 31 U.S.C. 3721, 5 U.S.C. 5701 et seq., 5 U.S.C. 4111(b), Pub. L. 97–365, 26 U.S.C. 6103(m)(2), 5 U.S.C. 5514, 31 U.S.C. 3716, 31 U.S.C. 321, 5 U.S.C. 301, 5 U.S.C. 4101 et seq., 41 CFR parts 301–304, EO 11348, and Treasury Order 140–01.

**PURPOSE(S):**

The Treasury Integrated Financial Management and Revenue System is to account for and control appropriated resources; maintain accounting and financial information associated with the normal operations of government organizations such as billing and follow-up, for paying creditors, to account for goods and services provided and received, to account for monies paid and received, process travel authorizations and claims, process training claims, and process employee claims for lost or damaged property. The records management and statistical analysis subsystems provide a data source for the production of reports, statistical surveys, documentation and studies required for integrated internal management reporting of costs associated with the Department's operation.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information:

(1) To appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) To the Department of Justice when seeking legal advice, or when (a) the agency or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records;

(3) To a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) In a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) or any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (e) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(5) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) To the news media in accordance with guidelines contained in 28 CFR 50.2 which pertain to an agency's functions relating to civil and criminal proceedings;

(7) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(8) To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed;

(9) To a contractor for the purpose of compiling, organizing, analyzing, programming, processing, or otherwise refining records subject to the same limitations applicable to U.S. Department of the Treasury officers and employees under the Privacy Act;

(10) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order;

(11) Through a computer matching program, information on individuals owing debts to the Department of the Treasury, or any of its components, to other Federal agencies for the purpose of determining whether the debtor is a Federal employee or retiree receiving payments which may be used to collect the debt through administrative or salary offset;

(12) To other Federal agencies to effect salary or administrative offset for the purpose of collecting debts, except that addresses obtained from the IRS shall not be disclosed to other agencies;

(13) To disclose information to a consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports;

(14) To a debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(15) To unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of the Federal labor-management program for the purpose of processing any corrective actions, or grievances, or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(16) To a public or professional auditing organization for the purpose of conducting financial audit and/or compliance audits;

(17) To a student participating in a Treasury student volunteer program, where such disclosure is necessary to support program functions of Treasury, and

(18) To insurance companies or other appropriate third parties, including common carriers and warehousemen, in the course of settling an employee's claim for lost or damaged property filed with the Department.

(19) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures made pursuant to 5 U.S.C. 552a(b)(12): Debt information concerning a government claim against an individual may be furnished in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982 (Pub. L. 97–365) to consumer reporting agencies to encourage repayment of an overdue debt.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper, microform and electronic media.

**RETRIEVABILITY:**

Name, social security number, vendor ID number, and document number (travel form, training form, purchase order, check, invoice, etc.).

**SAFEGUARDS:**

Protection and control of sensitive but unclassified (SBU) records in this system is in accordance with TD P 71–10, Department of the Treasury Security Manual, and any supplemental guidance issued by individual components.

**RETENTION AND DISPOSAL:**

Record maintenance and disposal is in accordance with National Archives and Records Administration retention schedules, and any supplemental guidance issued by individual components.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) DO: a. Director, Financial Management Division, 1500 Pennsylvania Avenue NW., Attn: 1310 G Street 2nd floor, Washington, DC 20220.

b. OIG: Assistant Inspector General for Management, 740 15th St. NW., Suite 510, Washington, DC 20220.

c. TIGTA: Director, Finance and Accountability, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. SIGTARP: Chief Financial Officer, 1801 L Street NW., Washington, DC 20036.

e. CDFI Fund: Deputy Director for Management/CFO, 601 13th Street NW., Suite 200 South, Washington, DC 20005.

f. FFB: Chief Financial Officer, 1500 Pennsylvania Avenue NW., South Court One, Washington, DC 20220.

g. IA: Deputy Senior Director, Business Operations, 1500 Pennsylvania Avenue NW., Room 5127A, Washington, DC 20220.

h. Treasury Forfeiture Fund: Assistant Director for Financial Management/CFO, 740 15th Street NW., Suite 700, Washington, DC 20220.

i. Treasury Franchise Fund: Director, Division of Franchise Services, Bureau of the Public Debt, 320 Avery Street, Parkersburg, WV 26101.

(2) TTB: Alcohol and Tobacco Tax and Trade Bureau: 1310 G St. NW., Washington, DC 20220.

(3) IRS: Chief Financial Officer, Internal Revenue Service, 1111 Constitution Avenue NW., Room 3013, Washington, DC 20224.

(4) BPD: Director, Division of Financial Management, Bureau of Public Debt, Avery Street Building, 320 Avery Street, Parkersburg, WV.

(5) OCC: Chief Financial Officer, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

(6) BEP: Chief Financial Officer, Bureau of Engraving and Printing, 14th and C Streets NW., Room 113M, Washington, DC 20228.

(7) FMS: Chief Financial Officer, Financial Management Service, 3700 East West Highway, Room 106A, Hyattsville, MD 20782.

(8) Mint: Chief Financial Officer, United States Mint, 801 9th Street NW., 7th Floor, Washington, DC 20220.

(9) FinCEN: Director, P.O. Box 39, Vienna, VA 22183–0039.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–M.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Individuals, private firms, other government agencies, contractors, documents submitted to or received

from a budget, accounting, travel, training or other office maintaining the records in the performance of their duties.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .010

**SYSTEM NAME:**

Telephone Call Detail Records—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220. The locations at which the system is maintained by Treasury components and their associated field offices are:

(1) Departmental Offices (DO):

a. 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th St. NW., Suite 700A, Washington, DC 20005.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street NW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Crimes Enforcement Network (FinCEN): Vienna, Virginia 22182.

(6) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(7) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(8) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(9) Bureau of the Public Debt (BPD): 200 Third Street, Parkersburg, WV 26101.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals (generally agency employees and contractor personnel) who make local and/or long distance calls, individuals who received telephone calls placed from or charged to agency telephones.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records relating to the use of Department telephones to place local and/or long distance calls, whether through the Federal Telecommunications System (FTS), commercial systems, or similar systems; including voice, data, and videoconference usage; telephone calling card numbers assigned to employees; records of any charges billed to Department telephones; records relating to location of Department telephones; and the results of administrative inquiries to determine responsibility for the placement of specific local or long distance calls. Telephone calls made to any Treasury Office of Inspector General Hotline numbers are excluded from the records maintained in this system pursuant to the provisions of 5 U.S.C., Appendix 3, Section 7(b) (Inspector General Act of 1978).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 1, 12 U.S.C. 93a, 12 U.S.C. 481, 5 U.S.C. 301 and 41 CFR 201–21.6.

**PURPOSE(S):**

The Department, in accordance with 41 CFR 201–21.6, Use of Government Telephone Systems, established the Telephone Call Detail program to enable it to analyze call detail information for verifying call usage, to determine responsibility for placement of specific long distance calls, and for detecting possible abuse of the government-provided long distance network.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records and information from these records may be disclosed:

(1) To representatives of the General Services Administration or the National Archives and Records Administration who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906;

(2) To employees or contractors of the agency to determine individual responsibility for telephone calls;

(3) To appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, or where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court order, or in connection with criminal law proceedings where relevant and necessary;

(5) To a telecommunications company providing telecommunication support to permit servicing the account;

(6) To another Federal agency to effect an interagency salary offset, or an interagency administrative offset, or to a debt collection agency for debt collection services. Mailing addresses acquired from the Internal Revenue Service may be released to debt collection agencies for collection services, but shall not be disclosed to other government agencies;

(7) To the Department of Justice for the purpose of litigating an action or seeking legal advice;

(8) In a proceeding before a court, adjudicative body, or other administrative body, before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to the litigation or has an interest in such litigation, and the use of such records by the agency is deemed relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(9) To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(10) To unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of the Federal labor-management program for the purpose of processing any corrective actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties;

(11) To the Defense Manpower Data Center (DMDC), Department of Defense, the U.S. Postal Service, and other Federal agencies through authorized computer matching programs to identify and locate individuals who are delinquent in their repayment of debts owed to the Department, or one of its components, in order to collect a debt through salary or administrative offsets;

(12) In response to a Federal agency's request made in connection with the hiring or retention of an individual, issuance of a security clearance, license, contract, grant, or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter.

(13) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 522a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collections Act of 1966 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Microform, electronic media, and/or hard copy media.

**RETRIEVABILITY:**

Records may be retrieved by: Individual name; component headquarters and field offices; by originating or terminating telephone number; telephone calling card numbers; time of day; identification number, or assigned telephone number.

**SAFEGUARDS:**

Protection and control of any sensitive but unclassified (SBU) records are in accordance with TD P 71–10, Department of the Treasury Security Manual, and any supplemental guidance issued by individual components.

**RETENTION AND DISPOSAL:**

Records are maintained in accordance with National Archives and Records Administration General Records Schedule 3. Hard copy and microform media disposed by shredding or incineration. Electronic media erased electronically.

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of the Treasury: Official prescribing policies and practices—Director, Customer Services Infrastructure and Operations, Department of the Treasury, Room 2150, 1425 New York Avenue NW., Washington, DC 20220. The system managers for the Treasury components are:

(1) a. DO: Chief, Telecommunications Branch, Automated Systems Division, Room 1121, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

b. TIGTA: Director, Human Capital and Support Services, 1125 15th St. NW., Suite 700A, Washington, DC 20005.

(2) TTB: Alcohol and Tobacco Tax and Trade Bureau: 1310 G St. NW., Washington, DC 20220.

(3) OCC: Associate Director, Telecommunications, Systems Support Division, Office of the Comptroller of the Currency, 835 Brightseat Road, Landover, MD 20785.

(4) BEP: Deputy Associate Director (Chief Information Officer), Office of Information Systems, Bureau of Engraving and Printing, Room 104–24M, 14th and C Street SW., Washington, DC 20228.

(5) FMS: Director, Platform Engineering Division, 3700 East West Highway, Hyattsville, MD 20782.

(6) IRS: Official prescribing policies and practices: National Director, Operations and Customer Support, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Office maintaining the system: Director, Detroit Computing Center, (DCC), 1300 John C. Lodge Drive, Detroit, MI 48226.

(7) Mint: Assistant Director for Information Technology, 801 9th Street NW., Washington, DC 20220.

(8) BPD: Official prescribing policies and practices: Assistant Commissioner (Office of Information Technology), 200 Third Street, Parkersburg, WV 26106–1328. Office maintaining the system: Division of Communication, 200 Third Street, Parkersburg, WV 26106–1328.

(9) FinCEN: Director, P.O. Box 39, Vienna, VA 22183–0039.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–M.

**RECORD ACCESS PROCEDURES:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–M.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Telephone assignment records, call detail listings, results of administrative inquiries to individual employees, contractors or offices relating to assignment of responsibility for placement of specific long distance or local calls.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .011

**SYSTEM NAME:**

Treasury Safety and Health Information Management System (SHIMS)—Treasury.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220. Other locations at which the system is maintained by Treasury components and their associated field offices are:

(1) Departmental Offices (DO):

a. 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program (SIGTARP), 1801 L Street NW., Washington, DC 20036.

e. Community Development Financial Institutions Fund (CDFI): 601 13th Street NW., Washington, DC 20005.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the currency (OCC): 250 E Street SW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(8) Bureau of the Public Debt (BPD): 200 Third Street, Parkersburg, WV

26101, and Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(9) Financial Crimes Enforcement Network (FinCEN), Vienna, VA 22183–0039.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and past Treasury employees and contractors who are injured on Department of the Treasury property or while in the performance of their duties offsite. Members of the public who are injured on Department of the Treasury property are also included in the system.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system pertain to medical injuries and occupational illnesses of employees which include social security numbers, full names, job titles, government and home addresses (city, state, zip code), home telephone numbers, work telephone numbers, work shifts, location codes, and gender. Mishap information on environmental incidents, vehicle accidents, property losses and tort claims will be included also. In addition, there will be records such as results of investigations, corrective actions, supervisory information, safety representatives names, data as to chemicals used, processes affected, causes of losses, etc. Records relating to contractors include full name, job title, work addresses (city, state, zip code), work telephone number, location codes, and gender. Records pertaining to a member of the public include full name, home address (city, state, zip code), home telephone number, location codes and gender. (Official compensation claim file, maintained by the Department of Labor's Office of Workers' Compensation Programs (OWCP) is part of that agency's system of records and not covered by this notice.)

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Executive Order 12196, section 1–2.

**PURPOSE(S):**

This system of records supports the development and maintenance of a Treasury-wide incident tracking and reporting system and will make it possible to streamline a cumbersome paper process. Current web technology will be employed and facilitate obtaining real-time data and reports related to injuries and illnesses. As an enterprise system for the Department and its component bureaus, incidents analyses can be performed instantly to affect a more immediate implementation of corrective actions and to prevent future occurrences. Information pertaining to past and all current employees and contractors injured on Treasury property or while in the performance of their duties offsite, as well as members of the public injured while on Federal property, will be gathered and stored in SIMIS. This data will be used for analytical purposes such as trend analysis, and the forecasting/projecting of incidents. The data will be used to generate graphical reports resulting from the analyses.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose pertinent information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(3) Disclose information to the Office of Workers' Compensation Programs, Department of Labor, which is responsible for the administration of the Federal Employees' Worker Compensation Act (FECA);

(4) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(5) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the Department of the Treasury (agency) is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(6) Disclose information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) Disclose information to a contractor for the purpose of processing administrative records and/or compiling, organizing, analyzing, programming, or otherwise refining records subject to the same limitations applicable to U.S. Department of the Treasury officers and employees under the Privacy Act;

(8) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where relevant or potentially relevant to a proceeding;

(9) Disclose information to unions recognized as exclusive bargaining representatives under 5 U.S.C. chapter 71, arbitrators, and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties;

(10) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of the Federal labor management program for the purpose of processing any corrective actions or grievances or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(11) Disclose information to a Federal, State, or local public health service agency as required by applicable law, concerning individuals who have contracted or who have been exposed to certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition;

(12) Disclose information to representatives of the General Services Administration (GSA) or the National Archives and Records Administration (NARA) who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906.

(13) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise

there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Maintained in hardcopy and electronic media.

**RETRIEVABILITY:**

Records can be retrieved by name, or by categories listed above under ''Categories of records in the system.''

**SAFEGUARDS:**

Protection and control of any sensitive but unclassified (SBU) records are in accordance with TD P 7110, Department of the Treasury Security Manual. The hardcopy files and electronic media are secured in locked rooms. Access to the records is available only to employees responsible for the management of the system and/or employees of program offices who have a need for such information and have been subject to a background check and/or security clearance.

**RETENTION AND DISPOSAL:**

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedule No. 1.

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of the Treasury official prescribing policies and practices: SHIMS Program Manager, Office of Environment, Safety, and Health, Department of the Treasury, Washington, DC 20220. The system managers for the Treasury components are:

(1) DO: a. Program Manager, Office of Environment, Safety, and Health, Room 6000 Annex, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. OIG: Safety and Occupational Health Manager, 740 15th Street NW., Washington, DC 20220.

c. TIGTA: Director, Human Capital and Support Services, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. CDFI: Safety and Occupational Health Manager, 601 13th Street NW., Washington, DC 20005.

(2) TTB: Alcohol and Tobacco Tax and Trade Bureau: 1310 G St. NW., Washington, DC 20220.

(3) OCC: Safety and Occupational Health Manager, 250 E Street SW., Washington, DC 20219–0001.

(4) BEP: Safety and Occupational Health Manager, 14th & C Streets SW., Washington, DC 20228.

(5) FMS: Safety and Occupational Health Manager, PG 3700 East-West Highway, Hyattsville, MD 20782.

(6) IRS: Safety and Occupational Health Manager, 1111 Constitution Avenue NW., Washington, DC 20224.

(7) MINT: Safety and Occupational Health Manager, 801 9th Street NW., Washington, DC 20220.

(8) BPD: Administrative Support Branch Manager, 200 Third Street, Parkersburg, WV 26101, and Avery Street Building, 320 Avery Street, Parkersburg, WV 26101.

(9) FinCEN: Safety and Occupational Health Manager, P.O. Box 39, Vienna, VA 22183–0039.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices, A–L.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedures'' above.

**RECORD SOURCE CATEGORIES:**

Information is obtained from current Treasury employees, contractors, members of the public, witnesses, medical providers, and relevant industry experts.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .012

**SYSTEM NAME:**

Fiscal Service Public Key Infrastructure—Treasury.

**SYSTEM LOCATION:**

The system of records is located at:

(1) The Bureau of the Public Debt (BPD), U.S. Department of the Treasury, in Parkersburg, WV, and,

(2) The Financial Management Service (FMS), U.S. Department of the Treasury, Washington, DC, and Hyattsville, MD. The system managers maintain the system location of these records.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Digital certificates may be issued to any of the following individuals: A Federal agency certifying officer who authorizes vouchers for payment; Federal employees who approve the grantees' accounts; an individual authorized by a state or grantee organization to conduct business with the Fiscal Service; employees of the Fiscal Service; fiscal agents; and contractors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains information needed to establish accountability and audit control of digital certificates. It also contains records that are needed to authorize an individual's access to a Treasury network. Depending on the service(s) requested by the customer, information may also include:

Personal identifiers—name, including previous name used, and aliases; organization, employer name and address; Social Security number, Tax Identification Number; physical and electronic addresses; telephone, fax, and pager numbers; bank account information (name, type, account number, routing/transit number); Federal-issued photograph ID; driver's license information or state ID information (number, state, and expiration date); military ID information (number, branch, expiration date); or passport/visa information (number, expiration date, and issuing country).

Authentication aids—personal identification number, password, account number, shared-secret identifier, digitized signature, other unique identifier.

The system contains records on public key data related to the customer, including the creation, renewal, replacement or revocation of digital certificates, including evidence provided by applicants for proof of identity and authority, sources used to verify an applicant's identity and authority, and the certificates issued, denied and revoked, including reasons for denial and revocation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 31 U.S.C. 321, and the Government Paperwork Elimination Act, Pub. L. 105–277.

Purposes:

We are establishing the Fiscal Service Public Key Infrastructure System to:

(1) Use electronic transactions and authentication techniques in accordance

with the Government Paperwork Elimination Act;

(2) Facilitate transactions involving the transfer of information, the transfer of funds, or where parties commit to actions or contracts that may give rise to financial or legal liability, where the information is protected under the Privacy Act of 1974, as amended;

(3) Maintain an electronic system to facilitate secure, on-line communication between Federal automated systems, and between federal employees or contractors, by using digital signature technologies to authenticate and verify identity;

(4) Provide mechanisms for non-repudiation of personal identification and access to Treasury systems including, but not limited to SPS and ASAP; and

(5) Maintain records relating to the issuance of digital certificates utilizing public key cryptography to employees and contractors for purpose of the transmission of sensitive electronic material that requires protection.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be disclosed to:

(1) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(2) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law or regulation;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order;

(4) A Federal, State, local or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's, hiring or retention of an individual, or issuance of a security clearance, license, contract, grant or other benefit;

(5) Agents or contractors who have been engaged to assist the Department in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity;

(6) The Department of Justice when seeking legal advice or when (a) the Department of the Treasury or (b) the disclosing agency, or (c) any employee of the disclosing agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the disclosing agency determines that litigation is likely to affect the disclosing agency, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; and

(7) Representatives of the National Archives and Records Administration (NARA) who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906.

(8) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained on electronic media, multiple client-server platforms that are backed-up to magnetic tape or other storage media, and/or hard copy.

**RETRIEVABILITY:**

Records may be retrieved by name, alias name, Social Security number, Tax Identification Number, account number, or other unique identifier.

**SAFEGUARDS:**

These records are maintained in controlled access areas. Identification cards are verified to ensure that only authorized personnel are present. Electronic records are protected by restricted access procedures, including the use of passwords and sign-on protocols which are periodically changed. Only employees whose official duties require access are allowed to view, administer, and control these records. Copies of records maintained on computer have the same limited access as paper records.

**RETENTION AND DISPOSAL:**

Records are maintained in accordance with National Archives and Records Administration retention schedules. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

**SYSTEM MANAGERS AND ADDRESSES:**

(1) Assistant Commissioner, Office of Information Technology, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26101, and,

(2) Assistant Commissioner, Information Resources, and Chief Information Officer, Financial Management Service, 3700 East West Highway, Hyattsville, MD 20782.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C:

Appendix I for records within the custody of the Bureau of the Public Debt, and,

Appendix G for records within the custody of the Financial Management Service.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

The information contained in this system is provided by or verified by the subject individual of the record, as well as federal and non-federal sources such as private employers.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY .013

**SYSTEM NAME:**

Department of the Treasury Civil Rights Complaints and Compliance Review Files.

**SYSTEM LOCATION:**

These records are located in the Department of the Treasury's (Treasury) Office of Civil Rights and Diversity

(OCRD), the Office of the General Counsel, and any other office within a Treasury bureau where a complaint is filed or where the action arose.

The locations at which the system is maintained are:

(1) a. Departmental Offices (DO): 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program (SIGTARP), 1801 L. Street NW., Washington, DC 20036.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 1310 G. St. NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street NW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th Street NW., Washington, DC 20220.

(8) Bureau of the Public Debt (BPD): 999 E Street NW., Washington, DC 20239.

(9) Financial Crimes Enforcement Network (FinCEN), Vienna, VA 22183–0039.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Covered individuals include persons who file complaints alleging discrimination or violation of their rights under the statutes identified below (Authority for Maintenance) and covered entities (*e.g.,* recipients of financial assistance from Treasury such as grantees and sub-grantees), whether individuals, organizations or institutions, investigated by OCRD as a result of allegations of discrimination or through compliance reviews conducted by OCRD. Covered individuals also include persons who submit correspondence to OCRD related to other compliance activities (*e.g.,* outreach and public education), and other correspondence unrelated to a complaint or review and requiring response by OCRD.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system encompasses a variety of records having to do with complaints, compliance reviews, and correspondence. The complaint files and log include complaint allegations, information gathered during the complaint investigation, findings and results of the investigation, and correspondence relating to the investigation, as well as status information for all complaints.

Equivalent types of information are maintained for reviews and correspondence activities (namely information gathered, findings, results, correspondence and status).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Title VI of the 1964 Civil Rights Act of 1964; sections 504 and 508 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and Title IX of the Education Amendments Act of 1972.

**PURPOSE(S):**

The complaint files and other records will be used to enforce and ensure compliance with the legal authorities listed above. Treasury uses the information in this system to investigate complaints and to obtain compliance with civil rights laws.

The system is used for the investigation of complaints and in reviewing recipients of Treasury financial assistance to determine if these programs are in compliance with the Federal laws which prohibit discrimination on the basis of race, color, national origin, sex, age, and disability. In addition, the system contains case files developed in investigating complaints and in reviewing actions within Treasury to determine if its conducted programs and activities are in compliance with the Federal laws. The system also contains annual and bi-annual statistical data submitted to and used by the OCRD in monitoring the compliance status of recipients of Department of the Treasury financial assistance.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose pertinent information to:

(1) Appropriate Federal agencies responsible for a civil rights action or, prosecuting a violation of, or enforcing, or implementing, a statute, rule, regulation, or order, where Treasury becomes aware of an indication of a potential violation of civil or criminal law or regulation, rule or order.

(2) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(3) Another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Federal Government is a party to the judicial or administrative proceeding. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a court of competent jurisdiction.

(4) The National Archives and Records Administration (''NARA'') for use in its records management inspections and its role as an Archivist.

(5) The United States Department of Justice for the purpose of representing or providing legal advice to Treasury in a proceeding before a court, adjudicative body, or other administrative body before which Treasury is authorized to appear, when such proceeding involves:

(A) Treasury or any component thereof;

(B) Any employee of Treasury in his or her official capacity;

(C) Any employee of Treasury in his or her individual capacity where the Department of Justice or Treasury has agreed to represent the employee;

(D) The United States, when Treasury determines that litigation is likely to affect Treasury or any of its components.

(6) Contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for Treasury, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Treasury officers and employees.

(7) Appropriate agencies, entities, and persons when: (a) Treasury suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) Treasury has determined that as a result of the suspected or confirmed compromise that there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by Treasury or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with Treasury's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records, file folders and/or electronic media.

**RETRIEVABILITY:**

In the case of administrative complaints, records are indexed by the complainant's name. In the case of compliance reviews, records are indexed by the name of the recipient of financial assistance.

**SAFEGUARDS:**

The civil rights complaint and compliance file system will conform to applicable law and policy governing the privacy and security of Federal records. These include but are not limited to the Privacy Act of 1984, and the Paperwork Reduction Act of 1995. Only authorized users have access to the records in the system. Specific access is structured around need and is determined by the person's role in the organization.

Printed materials are filed in secure cabinets in secure Federal buildings with access based on need.

**RETENTION AND DISPOSAL:**

Documents related to complaints and reviews are retained at OCRD for three years from the date the complaint is closed and then are archived at the National Archives and Records Administration for 15 years. Correspondence is retained for one year following the end of the fiscal year in which processed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of the Treasury: Official prescribing policies and practices: Associate Chief Human Capital Officer for Civil Rights and Diversity.

The system managers for the Treasury components are:

(1) Treasury: OCRD, External Civil Rights Program Manager, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

(2) a. DO: Office of EEO, EEO Director, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

b. OIG: EEO and Diversity Manager, 740 15th Street NW., Suite 500, Washington, DC 20220.

c. TIGTA: EEO Program Manager, 1125 15th Street NW., Suite 700A, Washington, DC 20005.

(d) SIGTARP: EEO Program Manager, 1801 L Street NW., 3rd Floor, Washington, DC 20220.

(3) TTB: EEO Officer, 1310 G Street NW., Suite 300W, Washington, DC 20220.

(4) OCC: Director, Workplace Fairness and Equal Opportunity, 250 E Street SW., Washington, DC 20219.

(5) BEP: Chief, Office of Equal Opportunity and Diversity Management, 14th and C Street SW., Room 639–17, Washington, DC 20228.

(6) FMS: EEO Officer, PG Center, Building 2, Room 137, 3700 East-West Highway, Hyattsville, MD 20782.

(7) IRS: Director, Civil Rights Division, 1111 Constitution Avenue NW., Suite 2219, Washington, DC 20224.

(8) U.S. Mint: Chief, EEO and Dispute Resolution Division, 801 9th Street NW., 3rd Floor, Washington, DC 20220.

(9) BPD: EEO Officer, 200 3rd Street, Room 102, Parkersburg, WV 26106.

(10) FinCEN: Chief, Outreach and Workplace Solutions, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at *31 CFR part 1*, subpart C, appendices A–M. Requests for information and specific guidance on where to send requests for records may be addressed to: Privacy Act Request, DO, Director, Disclosure Services Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedure'' above.

**RECORD SOURCE CATEGORIES:**

Information is provided by Treasury employees, complainants and covered entities.

Records exempted from certain provisions of the act:

Certain records in this system are exempt from *5 U.S.C. 552a*(c)(3), (d)(1), (2), (3), and (4), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to *5 U.S.C. 552a*(k)(2). See *31 CFR 1.36*. Show citation box.

## TREASURY .014

**SYSTEM NAME:**

Department of the Treasury SharePoint User Profile Services—Treasury/DO.

**SYSTEM LOCATION:**

These records are located in the Department of the Treasury's (Treasury) Office of Privacy, Transparency, and Records, and any other office within a Treasury bureau where the data was entered on the site. The locations at which the system is maintained are:

(1) a. Departmental Offices: 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. The Office of Inspector General: 740 15th Street NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration: 1125 15th Street NW., Suite 700A, Washington, DC 20005.

d. Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

(2) Alcohol and Tobacco Tax and Trade Bureau: 1310 G Street NW., Washington, DC 20220.

(3) Office of the Comptroller of the Currency: 250 E Street NW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing: 14th & C Streets SW., Washington, DC 20228.

(5) Fiscal Services: 401 14th Street SW., Washington, DC 20227.

(6) Internal Revenue Service: 1111 Constitution Avenue NW., Washington, DC 20224.

(7) United States Mint: 801 9th Street NW., Washington, DC 20220.

(8) Financial Crimes Enforcement Network: 2070 Chain Bridge Road, Vienna, VA 22183.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Treasury employees, detailees, contractors, and interns.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name; name of department/office/bureau; job title; office work and cell phone numbers; work email address; office fax number; office building location; assistant/alternate point of contact (optional); phonetic name (optional); skills/experience (optional); educational background (optional); status message (optional), and photograph (optional).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

The purpose of this system is to create a central platform through which Treasury and its bureaus' employees, detailees, contractors, and interns may collaborate and exchange information in order to increase operational efficiency.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate federal, foreign, state, local, tribal, or other public authorities or self-regulatory organizations responsible for

investigating or prosecuting the violations of, enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court order, or in connection with criminal law proceedings or mediation/alternative dispute resolution;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to the United States Department of Justice for the purpose of representing or providing legal advice to Treasury in a proceeding before a court, adjudicative body, or other administrative body before which Treasury is authorized to appear, when such proceeding involves:

(A) Treasury or any component thereof;

(B) Any employee of Treasury in his or her official capacity;

(C) Any employee of Treasury in his or her individual capacity where the Department of Justice or Treasury has agreed to represent the employee;

(D) The United States, when Treasury determines that litigation is likely to affect Treasury or any of its components.

(5) Disclose information to contractors and their agents, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for Treasury, when necessary to accomplish an agency function related to this system of records;

(6) Provide information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name; department; name of office/bureau; job title; manager/supervisor; office work and cell phone; work email address; office fax number; office building location; assistant/alternate point of contact; phonetic name; skills/experience; educational background; and status message.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the type and amount of data is governed by privilege management software and policies developed and enforced by federal government personnel and are determined by specific roles and responsibilities. Procedural and physical safeguards, such as personal accountability, will be utilized. Certified system management personnel are responsible for maintaining the system integrity and the data confidentiality.

**RETENTION AND DISPOSAL:**

To the extent there are records identified, they will be destroyed in accordance with the appropriate disposition schedule approved by the National Archives and Records Administration. Non-record material will be removed when no longer deemed necessary by the system owner.

**SYSTEM MANAGER AND ADDRESS:**

a. Deputy Assistant Secretary for Information Technology and Chief Information Officer, 1500 Pennsylvania Avenue NW., Washington, DC 20020;

b. Deputy Assistant Secretary for Privacy, Transparency, and Records, 1500 Pennsylvania Avenue NW., Washington, DC 20020.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, Subpart C, Appendices A–M. Requests for information and specific guidance on where to send requests for records may be addressed to: Privacy Act Request, DO, Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Records are obtained from Active Directory, Treasury employees, detailees, contractors, and interns.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 2013–31332 Filed 12–31–13; 8:45 am]

**BILLING CODE 4811–33–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning income, gift and estate tax.

**DATES:** Written comments should be received on or before March 3, 2014 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington,

DC 20224, or through the internet at *Allan.M.Hopkins#irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Income, Gift and Estate Tax.

*OMB Number:* 1545–1360.

*Regulation Project Number:* PS–102–88. (T.D. 8612)

*Abstract:* This regulation concerns the availability of the gift and estate tax martial deduction when the donee spouse or the surviving spouse is not a United States citizen. The regulation provides guidance to individuals or fiduciaries: (1) For making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the martial deduction, and (2) for filing the annual returns that such an election may require.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 2,300.

*Estimated Time per Respondent:* 2 hours, 40 minutes.

*Estimated Total Annual Burden Hours:* 6,150.

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: December 24, 2013.

**Allan Hopkins,**

*Tax Analyst.*

[FR Doc. 2013–31329 Filed 12–31–13; 8:45 am]

BILLING CODE 4830–01–P

# FEDERAL REGISTER

Vol. 79 Thursday,

No. 1 January 2, 2014


Part II

## Department of the Treasury

Departmental Offices

Privacy Act of 1974; Systems of Records; Notice

## DEPARTMENT OF THE TREASURY

### Departmental Offices

### Privacy Act of 1974; Systems of Records

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Notice of systems of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Departmental Offices (DO) is publishing its Privacy Act systems of records.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a and the Office of Management and Budget (OMB) Circular No. A–130, the Department completed a review of its Privacy Act systems of records notices to identify and implement minor changes that more accurately describe these records. Such changes throughout the document are editorial and consist principally of changes to system locations and system manager addresses, and revisions to organizational titles. The notices were last published in their entirety on April 20, 2010, beginning at 75 FR 20675.

Six systems of record have been amended, altered, or added to the Department's inventory of Privacy Act notices since April 20, 2010, as follows: DO .120—Records Related to Office of Foreign Assets Control Economic Sanctions (January 27, 2011 at 76 FR 4995) and (October 6, 2010 at 75 FR 61857); DO .191—Human Resources and Administrative Records System (July 28, 2011 at 76 FR 45336); DO .196—Treasury Information Security Program (February 15, 2012 at 77 FR 8954); DO .218—Making Home Affordable Program (April 2, 2012 at 77 FR 19751), (June 24, 2011 at 76 FR 37193), and (July 2, 2010 at 75 FR 38608); DO .225—Troubled Asset Relief Program Fraud Investigation Information System (February 9, 2011 at 76 FR 7239); and DO .226—Validating EITC Eligibility with State Data Pilot Project Records (July 7, 2011 at 76 FR 39980).

### Systems Covered by This Notice

This notice covers all systems of records maintained by the Departmental Offices as of January 2, 2014. The system notices are reprinted in their entirety following the Table of Contents.

Dated: December 12, 2013.

**Helen Goff Foster,**

*Deputy Assistant Secretary for Privacy, Transparency, and Records.*

### Departmental Offices (DO)

### Table of Contents

DO .003—Law Enforcement Retirement Claims Records
DO .007—General Correspondence Files
DO .010—Office of Domestic Finance, Actuarial Valuation System
DO .015—Political Appointee Files
DO .060—Correspondence Files and Records on Dissatisfaction
DO .120—Records Related to Office of Foreign Assets Control Economic Sanctions
DO .144—General Counsel Litigation Referral and Reporting System
DO .149—Foreign Assets Control Legal Files
DO .190—Office of Inspector General Investigations Management Information System (formerly: Investigation Data Management System)
DO .191—Human Resources and Administrative Records System
DO .193—Employee Locator and Automated Directory System
DO .194—Circulation System
DO .196—Treasury Information Security Program
DO .202—Drug-Free Workplace Program Records
DO .207—Waco Administrative Review Group Investigation
DO .209—Personal Services Contracts (PSC)
DO .214—DC Pensions Retirement Records
DO .216—Treasury Security Access Control and Certificates Systems
DO .217—National Financial Literacy Challenge Records
DO .218—Making Home Affordable Program
DO .219—TARP Standards for Compensation and Corporate Governance—Executive Compensation Information
DO .220—SIGTARP Hotline Database
DO .221—SIGTARP Correspondence Database
DO .222—SIGTARP Investigative MIS Database
DO .223—SIGTARP Investigative Files Database
DO .224—SIGTARP Audit Files Database
DO .225—TARP Fraud Investigation Information System
DO .226—Validating EITC Eligibility with State Data Pilot Project Records
DO .301—TIGTA General Personnel and Payroll
DO .302—TIGTA Medical Records
DO .303—TIGTA General Correspondence
DO .304—TIGTA General Training
DO .305—TIGTA Personal Property Management Records
DO .306—TIGTA Recruiting and Placement Records
DO .307—TIGTA Employee Relations Matters, Appeals, Grievances, and Complaint Files
DO .308—TIGTA Data Extracts
DO .309—TIGTA Chief Counsel Case Files
DO .310—TIGTA Chief Counsel Disclosure Section
DO .311—TIGTA Office of Investigations Files.

### TREASURY/DO .003

**SYSTEM NAME:**

Law Enforcement Retirement Claims Records—Treasury/DO.

**SYSTEM LOCATION:**

These records are located in the Office of Human Capital Strategic Management, Suite 1200, 1750 Pennsylvania Avenue NW., Department of the Treasury, Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current or former Federal employees who have submitted claims for law enforcement retirement coverage (claims) with their bureaus in accordance with 5 U.S.C. 8336(c)(1) and 5 U.S.C. 8412(d).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains records relating to claims filed by current and former Treasury employees under 5 U.S.C. 8336(c)(1) and 5 U.S.C. 8412(d). These case files contain all documents related to the claim including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 8336(c)(1), 8412(d), 1302, 3301, and 3302; E.O. 10577; 3 CFR 1954–1958 Comp., p. 218 and 1959–1963 Comp., p. 519; and E.O. 10987.

**PURPOSE(S):**

The purpose of the system is to make determinations concerning requests by Treasury employees that the position he or she holds qualifies as a law enforcement position for the purpose of administering employment and retirement benefits.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used:

(1) To disclose pertinent information to the appropriate Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) To disclose information to any source from which additional information is requested in the course of processing a claim, to the extent necessary to identify the individual whose claim is being adjudicated, inform the source of the purpose(s) of the request, and identify the type of information requested;

(3) To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the issuance

of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter;

(4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) To disclose information which is necessary and relevant to the Department of Justice or to a court when the Government is party to a judicial proceeding before the court;

(6) To provide information to the National Archives and Records Administration for use in records management inspections conducted under authority of 44 U.S.C. 2904 and 2908;

(7) To disclose information to officials of the Merit Systems Protection Board, the Office of the Special Counsel, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, or the Office of Personnel Management when requested in performance of their authorized duties;

(8) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing Counsel or witnesses in the course of civil discovery, litigation or settlement negotiations in response to a court order where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings; and

(9) To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by names of the individuals on whom they are maintained.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

In accordance with General Records Schedule 1, Civilian Personnel Records, Category 7d are disposed of after closing of the case.

**SYSTEM MANAGER(S) AND ADDRESSES:**

Director, Office of Human Capital Strategic Management, Suite 1200, 1750 Pennsylvania Avenue NW., Department of the Treasury, Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

It is required that individuals submitting claims be provided a copy of the record under the claims process. They may, however, contact the agency personnel or designated office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified: (1) name, (2) date of birth, (3) approximate date of closing of the case and kind of action taken, (4) organizational component involved.

**RECORD ACCESS PROCEDURES:**

It is required that individuals submitting claims be provided a copy of the record under the claims process. However, after the action has been closed, an individual may request access to the official copy of the claim file by contacting the system manager. Individuals must provide the following information for their records to be located and identified: (1) name, (2) date of birth, (3) approximate date of closing of the case and kind of action taken, (4) organizational component involved.

**CONTESTING RECORD PROCEDURES:**

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request amendment to their records to correct factual errors should contact the system manager. Individuals must furnish the following information for their records to be located and identified: (1) name, (2) date of birth, (3) approximate date of closing of the case and kind of action taken, (4) organizational component involved.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is provided: (1) by the individual on whom the record is maintained, (2) by testimony of witnesses, (3) by agency officials, (4) from related correspondence from organizations or persons.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO.007

**SYSTEM NAME:**

General Correspondence Files—Treasury/DO.

**SYSTEM LOCATION:**

Departmental Offices, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220. Components of this record system are in the following offices within the Departmental Offices:

1. Office of Foreign Assets Control.
2. Office of Tax Policy.
3. Office of International Affairs.
4. Office of the Executive Secretariat.
5. Office of Legislative Affairs.
6. Office of Terrorism and Financial Intelligence.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Members of Congress, U.S. Foreign Service officials, officials and employees of the Treasury Department, officials of municipalities and State governments, and the general public,

foreign nationals, members of the news media, businesses, officials and employees of other Federal Departments and agencies.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Incoming correspondence and replies pertaining to the mission, function, and operation of the Department, tasking sheets, and internal Treasury memorandum.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

The manual systems and/or electronic databases (e.g., Treasury Automated Document System (TADS)) used by the system managers are used to manage the high volume of correspondence received by the Departmental Offices and to accurately respond to inquiries, suggestions, views and concerns expressed by the writers of the correspondence. It also provides the Secretary of the Treasury with sentiments and statistics on various topics and issues of interest to the Department.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(2) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(3) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(4) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(5) Provide information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(6) Provide information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings, and

(7) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name of individual or letter number, address, assignment control number, or organizational relationship.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

Some records are maintained for three years, then destroyed by burning. Other records are updated periodically and maintained as long as needed. Some electronic records are periodically updated and maintained for two years after date of response; hard copies of those records are disposed of after three months in accordance with the NARA schedule. Paper records of the Office of the Executive Secretary are stored indefinitely at the Federal Records Center.

**SYSTEM MANAGER(S) AND ADDRESSES:**

1. Director, Office of Foreign Assets Control, U.S. Treasury Department, Room 2233, Treasury Annex, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

2. Freedom of Information Act Officer, Office of Tax Policy, U.S. Treasury Department, Room 5037G–MT, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

3. Senior Director, International Affairs Business Office, U.S. Treasury Department, Room 4456–MT, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

4. Director, VIP Correspondence, Office of the Executive Secretariat, U.S. Treasury Department, Room 3419–MT, Washington, DC 20220.

5. Deputy to the Assistant Secretary, Office of Legislative Affairs, U.S. Treasury Department, Room 3464–MT, Washington, DC 20220.

6. Senior Resource Manager, Office of Terrorism and Financial Intelligence, U.S. Department of the Treasury, Room 4006, Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, or to gain access to records maintained in this system may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Individuals must submit a written request containing the following elements: (1) identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to Director, Disclosure Services (see ''Record access procedures'' below).

**RECORD ACCESS PROCEDURES:**

Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Record access procedures'' above.

**RECORD SOURCE CATEGORIES:**

Members of Congress or other individuals who have corresponded with the Departmental Offices, other governmental agencies (Federal, state and local), foreign individuals and official sources.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO.010

**SYSTEM NAME:**

Office of Domestic Finance, Actuarial Valuation System—Treasury/DO.

**SYSTEM LOCATION:**

Departmental Offices, Office of Government Financing, Office of Policy and Legislative Review, 1120 Vermont Avenue NW., Washington, DC 20005.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Participants and beneficiaries of the Foreign Service Retirement and Disability System and the Foreign Service Pension System. Covered employees are located in the following agencies: Department of State, Department of Agriculture, Agency for International Development, Peace Corps, and the Department of Commerce.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Active Records: name; social security number; salary; category-grade; pay-plan; department-class; year of entry into system; service computation date; year of birth; year of resignation or year of death, and refund if any.

Retired Records: same as active records; annuity; year of separation; cause of separation (optional, disability, deferred, etc.); years and months of service by type of service; marital status; spouse's year of birth; annuitant type; principal's year of death; number of children on annuity roll; children's years of birth and annuities.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

22 U.S.C. 4058 and 22 U.S.C. 4071h.

**PURPOSE(S):**

22 U.S.C. 4058 and 22 U.S.C. 4071h require that the Secretary of the Treasury prepare estimates of the annual appropriations required to be made to the Foreign Service Retirement and Disability Fund. The Secretary of the Treasury is also required, at least every five years, to prepare valuations of the Foreign Pension System and the Foreign Service Retirement and Disability System. In order to satisfy this requirement, participant data must be collected so that liabilities for the Foreign Service Retirement and Disability System and the Foreign Service Pension System can be actuarially determined.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

(1) Data regarding specific individuals is released only to the contributing agency for purposes of verification, and

(2) Other information may be disclosed to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved alphabetically.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. Access is restricted to select employees of the Office of Government Financial Policy. Passwords are required to access the data.

**RETENTION AND DISPOSAL:**

Records are retained on a multiple year basis in order to perform actuarial experience studies.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Policy and Legislative Review, Departmental Offices, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, gain access to records maintained in this system, or seek to contest its content must submit a written request containing the following elements: (1) identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Data for actuarial valuation are provided by organizations responsible for pension funds and pay records, namely the Department of State and the National Finance Center.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .015

**SYSTEM NAME:**

Political Appointee Files—Treasury/DO.

**SYSTEM LOCATION:**

Department of the Treasury, Departmental Offices, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who may possibly be appointed to political positions in the Department of the Treasury, consisting of Presidential appointees requiring Senate confirmation; non-career Senior Executive Service appointees; and Schedule C appointees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Files may consist of the following: Referral letters; White House clearance letters; information about an individual's professional licenses (if applicable); IRS results of inquiries; notation of National Agency Check (NAC) results (favorable or otherwise); internal memoranda concerning an individual; Financial Disclosure Statements (Standard Form 278); results of inquiries about the individual; Questionnaire for National Security Positions Standard Form 86; Personal Data Statement and General Counsel

Interview sheets; published works including books, newspaper and magazine articles, and treatises by the individual; newspaper and magazine articles written about or referring to the individual; and or articles containing quotes by the individual, and other correspondence relating to the selection and appointment of political appointees.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 3301, 3302 and E.O. 10577.

**PURPOSE(S):**

These records are used by authorized personnel within the Department to determine a potential candidate's suitability for appointment to non-career positions within the Department of the Treasury.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be disclosed to:

(1) The Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and regulations;

(2) A Federal, state, local or foreign agency maintaining civil, criminal or other relevant enforcement information or other pertinent information which has requested information relevant to or necessary to the requesting agency's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation or settlement negotiations in response to a court order where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(4) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(6) Appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation of, or for implementing a statute, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation, and

(7) To appropriate agencies, entities, and persons when: (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by last name of individual and Social Security Number.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearance or permissions. Building employs security guards.

**RETENTION AND DISPOSAL:**

Records are destroyed at the end of the Presidential administration during which the individual is hired. For non-selectees, records of individuals who are not hired are destroyed one year after the file is closed, but not later than the end of the Presidential administration during which the individual is considered.

**SYSTEM MANAGER(S) AND ADDRESS:**

White House Liaison, Department of the Treasury, Room 3418, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be informed if they are named in this system or gain access to records maintained in the system must submit a written, signed request containing the following elements: (1) identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''Record Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Record Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Records are submitted by the individuals and compiled from interviews with those individuals seeking non-career positions. Additional sources may include the White House, Office of Personnel Management, Internal Revenue Service, Department of Justice and international, state, and local jurisdiction law enforcement components for clearance documents, and other correspondence and public record sources.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .060

**SYSTEM NAME:**

Correspondence Files and Records on Dissatisfaction—Treasury/DO.

**SYSTEM LOCATION:**

Office of Human Capital Strategic Management, Suite 1200, 1750 Pennsylvania Avenue NW., Department of the Treasury, Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Former and current Department employees who have submitted complaints to the Office of Human Resources Strategy and Solutions (HRSS) or whose correspondence concerning a matter of dissatisfaction has been referred to HRSS.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Correspondence dealing with former and current employee complaints.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

To maintain a record of correspondence related to inquiries filed with the Departmental Office of Human Resources Strategy and Solutions.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, state, and local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential civil or criminal law or regulation;

(2) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(3) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(4) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation, and

(5) To appropriate agencies, entities, and persons when: (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by bureau and employee name.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

Records are maintained and disposed of in accordance with Department of the Treasury Directive 25–02, ''Records Disposition Management Program,'' and the General Records Schedule.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Human Capital Strategic Management, Suite 1200, 1750 Pennsylvania Avenue NW., Department of the Treasury, Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Persons inquiring as to the existence of a record on themselves may contact: Director, Human Capital Strategic Management, Suite 1200, 1750 Pennsylvania Avenue NW., Department of the Treasury, Washington, DC 20220. The inquiry must include the individual's name and employing bureau.

**RECORD ACCESS PROCEDURES:**

Persons seeking access to records concerning themselves may contact: Office of Human Resources Strategy and Solutions, Suite 1200, 1750 Pennsylvania Avenue NW., Department of the Treasury, Washington, DC 20220. The inquiry must include the individual's name and employing bureau.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment to their records to correct factual error should contact the Director, Office of Human Resources Strategy and Solutions at the address shown in Access, above. They must furnish the following information: (a) name; (b) employing bureau; (c) the information being contested; (d) the reason why they believe information is untimely, inaccurate, incomplete, irrelevant, or unnecessary.

**RECORD SOURCE CATEGORIES:**

Current and former employees, and/or representatives, employees' relatives, general public, Congressmen, the White House, management officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .120

**SYSTEM NAME:**

Records Related to Office of Foreign Assets Control Economic Sanctions.

**SYSTEM LOCATION:**

Office of Foreign Assets Control (OFAC), Treasury Annex, 1500 Pennsylvania Ave. NW., Washington, DC 20220 or other U.S. Government facilities.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

A system of records within Treasury's Departmental Offices exists to manage records related to the implementation, enforcement, and administration of U.S. economic sanctions. This includes records and information relating to individuals who:

(1) Are or have been subject to investigation to determine whether they meet the criteria for designation or blocking and/or are determined to be designated or blocked individuals or otherwise subject to sanctions under the sanctions programs administered by OFAC, or with respect to whom information has been obtained by OFAC in connection with such an investigation;

(2) Engaged in or are suspected of having engaged in transactions and activities prohibited by Treasury Department regulations found at 31 CFR part 1, subpart B, chapter V, relevant statutes, and related Executive orders or proclamations, or with respect to whom information has been obtained by OFAC in connection with an investigation of such transactions and activities;

(3) Are applicants for permissive and authorizing licenses or already hold valid licenses under Treasury Department regulations, relevant statutes, and related Executive orders or proclamations;

(4) Hold blocked assets. Although most persons (individuals and entities) reporting the holding of blocked assets or persons holding blocked assets are not individuals, such reports and censuses conducted by OFAC identify a small number of U.S. individuals as holders of assets subject to U.S. jurisdiction which are blocked under the various sets of Treasury Department regulations involved, relevant statutes,

and related Executive orders or proclamations; or

(5) Submitted claims received, reviewed, and/or processed by OFAC for payment determination pursuant to Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106–386, Section 2002).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records related to the implementation, enforcement, and administration of U.S. sanctions programs, including records related to:

(1) Investigations to determine whether an individual meets the criteria for designation or blocking and/or is determined to be a designated or blocked individual or otherwise affected by one or more sanctions programs administered by OFAC. In the course of an investigation, personally identifiable information is collected. Once an individual is designated, OFAC provides personally identifiable information to the public so that it can recognize listed individuals and prevent them from accessing the U.S. financial system. The release of personally identifiable information pertaining to the designee is also important in helping to protect other individuals from being improperly identified as the sanctioned target. The personally identifiable information collected by OFAC may include, but is not limited to, names and aliases, dates of birth, citizenship information, addresses, identification numbers associated with government-issued documents, such as driver's license and passport numbers, and for U.S. individuals, Social Security numbers;

(2) Suspected or actual violations of regulations, relevant statutes, and related Executive orders or proclamations administered by OFAC;

(3) Applications for OFAC licenses—with attendant supporting documentary material and copies of licenses issued—related to engaging in activities with designated entities and individuals or other activities that otherwise would be prohibited by relevant statutes, regulations, and Executive orders or proclamations administered by OFAC, including reports by individuals and entities currently holding Treasury licenses concerning transactions which the license holder has conducted pursuant to the licenses;

(4) Reports and censuses of assets blocked or held by U.S. individuals and entities which have been blocked at any time since 1940 pursuant to Treasury Department regulations found at 31 CFR part 1, subpart B, chapter V, relevant statutes, and related Executive orders or proclamations; or

(5) Submitted claims received, reviewed, and/or processed by OFAC for payment determinations pursuant to Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106–386).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

3 U.S.C. 301; 50 U.S.C. App. 1–44; 21 U.S.C. 1901–1908; 8 U.S.C. 1182; 18 U.S.C. 2339B; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651; 50 U.S.C. 1701–1706; Pub. L. 110–286, 122 Stat. 2632; 22 U.S.C. 2370(a); Pub. L. 108–19, 117 Stat. 631; Pub. L. 106–386 § 2002; Pub. L. 108–175, 117 Stat. 2482; Pub. L. 109–344, 120 Stat. 1869; 31 CFR Chapter V.

**PURPOSE(S):**

This system of records exists within Treasury's Departmental Offices to manage records related to the implementation, enforcement, and administration of U.S. economic sanctions by OFAC. Included in this system of records are records:

(1) Relating to investigations into whether individuals and entities meet the criteria for economic sanctions under U.S. sanctions programs administered by OFAC. This portion of the system of records may be used during enforcement, designation, blocking, and other investigations, when applicable. These records are also used to produce the publicly issued List of Specially Designated Nationals and Blocked Persons (SDN List). The SDN List is used to publish information that will assist the public in identifying individuals and entities whose property and interests in property are blocked or otherwise affected by one or more sanctions programs administered by OFAC, as well as information identifying certain property of individuals and entities that are subject to OFAC economic sanctions programs, such as vessels.

(2) Relating to investigations of individuals and entities suspected of violating statutes, regulations, or Executive orders administered by OFAC. Possible violations may relate to financial, commercial, or other transactions with persons on whom sanctions have been imposed, including but not limited to foreign governments, blocked persons (entities and individuals), and specially designated nationals (entities and individuals). OFAC conducts civil investigations of possible violations. When it determines that a violation has occurred, OFAC issues a civil penalty or takes other administrative action, when appropriate. Criminal investigations of possible violations are conducted by relevant U.S. law enforcement agencies. OFAC refers criminal matters to those agencies and otherwise exchanges information with them to support the investigation and prosecution of possible violations. Records of enforcement investigations and resulting administrative actions are also used to generate statistical information.

(3) Containing requests from U.S. and foreign individuals or entities for licenses to engage in commercial or humanitarian transactions, to unblock property and bank accounts, or to engage in other activities otherwise prohibited under economic sanctions administered by OFAC. This also includes information collected in the course of determining whether to issue a license and ensuring its proper use, as well as reports by individuals and entities currently holding Treasury licenses concerning transactions which the license holder conducted pursuant to the licenses. This portion of the system of records may be used during enforcement investigations, to ascertain whether there is compliance with the conditions of ongoing OFAC licenses, and to generate information used in reports on the number and types of licenses granted or denied under particular sanctions programs.

(4) Used to identify and administer assets of blocked foreign governments, groups, entities, or individuals. OFAC receives reports of asset blocking actions by U.S. entities and individuals when assets are blocked under the sanctions programs OFAC administers; when censuses are taken at various times for specific sanctions programs to identify the location, type, and value of property blocked under OFAC-administered programs; and when OFAC obtains information regarding blockable assets in the course of its investigations. Most blocked asset information is obtained by requiring reports from all U.S. holders of blocked property subject to OFAC reporting requirements. The reports normally contain information such as the name of the U.S. holder, the account party, the location of the property, and a description of the type and value of the asset. In some instances, adverse claims by U.S. entities and individuals against the blocked property are also reported. This portion of the system of records may be used during enforcement, designation, blocking, and other investigations as well as to produce reports and respond to requests for information.

(5) Used to support determinations made by OFAC pursuant to Section 2002 of Pub. L. 106–386, the Victims of Trafficking and Violence Protection Act of 2000, including the facilitating of

payments provided for under the Act. OFAC has reported its determinations to other parts of Treasury to facilitate payment on claims.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose information to further the efforts of appropriate Federal, state, local, or foreign agencies in investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or agreement;

(2) Disclose information to a Federal, state, local, or foreign agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information necessary or relevant to the requesting agency's official functions;

(3) Disclose information to the Departments of State, Justice, Homeland Security, Commerce, Defense, or Energy, or other federal agencies, in connection with Treasury licensing policy or other matters of mutual interest or concern;

(4) Provide information to appropriate national security and/or foreign-policy-making officials in the Executive branch to ensure that the management of OFAC's sanctions programs is consistent with U.S. foreign policy and national security goals;

(5) Disclose information relating to blocked property to appropriate state agencies for activities or efforts connected to abandoned property;

(6) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a Court order, or in connection with criminal law proceedings, when such information is determined to be arguably relevant to the proceeding;

(7) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Disclose information to foreign governments and entities, and multilateral organizations—such as Interpol, the United Nations, and international financial institutions—consistent with law and in accordance with formal or informal international agreements, or for an enforcement, licensing, investigatory, or national security purpose;

(9) Provide information to third parties during the course of an investigation or an enforcement action to the extent necessary to obtain information pertinent to the investigation or to carry out an enforcement action;

(10) Provide access to information to any agency, entity, or individual for purposes of performing authorized security, audit, or oversight operations or meeting related reporting requirements;

(11) Disclose information to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm; or

(12) Disclose information to the general public, in furtherance of OFAC's mission, regarding individuals and entities whose property and interests in property are blocked or otherwise affected by one or more OFAC economic sanctions programs, as well as information identifying certain property of individuals and entities subject to OFAC economic sanctions programs. This routine use includes disclosure of information to the general public in furtherance of OFAC's mission regarding individuals and entities that have been designated by OFAC. This routine use encompasses publishing this information in the **Federal Register**, in the Code of Federal Regulations, on OFAC's Web site, and by other means.

The information associated with individuals as published on OFAC's List of Specially Designated Nationals and Blocked Persons (the SDN List) generally relates to non-U.S. entities and individuals, and, therefore, the Privacy Act does not apply to most of the individuals included on the SDN List. However, a very small subset of the individuals on the SDN List consists of U.S. individuals. Individuals and entities on the SDN List are generally designated based on Executive orders and other authorities imposing sanctions with respect to terrorists, proliferators of weapons of mass destruction, sanctioned nations or regimes, narcotics traffickers, or other identified threats to the national security, foreign policy, and/or economy of the United States. Generally, the personal identifier information provided on the SDN List may include, but is not limited to, names and aliases, addresses, dates of birth, citizenship information, and, at times, identification numbers associated with government-issued documents. It is necessary to provide this identifier information in a publicly available format so that listed individuals and entities can be identified and prevented from accessing the U.S. financial system. At the same time, the release of detailed identifier information of individuals whose property is blocked or who are otherwise affected by one or more OFAC economic sanctions programs is important in helping to protect other individuals from being improperly identified as the sanctioned target. Because the SDN List is posted on OFAC's public Web site and published in the **Federal Register** and in 31 CFR Appendix A, a designated individual's identifier information can be accessed by any individual or entity with access to the internet, the **Federal Register**, or 31 CFR Appendix A. Thus, the impact on the individual's privacy will be substantial, but this is necessary in order to make targeted economic sanctions effective. Designated individuals can file a ''de-listing petition'' to request their removal from the SDN List. See 31 CFR 501.807. If such a petition is granted, the individual's name and all related identifier information are removed from the active SDN List.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records related to:

(1) Enforcement, designation, blocking, and other investigations are retrieved by the name of the individual or other relevant search term.

(2) Licensing applications are retrieved by license or letter number or by the name of the applicant.

(3) Blocked property records are retrieved by the name of the holder, custodian, or owner of blocked property.

(4) Claims received, reviewed, and processed by OFAC for payment determinations pursuant to Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000, Public Law Number 106–386, are retrieved by the name of the applicant.

**SAFEGUARDS:**

Folders maintained in authorized filing equipment are located in areas of limited and controlled access and are limited to authorized Treasury employees. Computerized records are on a password-protected network. Access controls for all internal, electronic information are not less than required by the Treasury Security Manual (TDP–71–10). The published List of Specially Designated Nationals and Blocked Persons is considered public domain.

**RETENTION AND DISPOSAL:**

Records are managed according to applicable Federal Records Management laws and regulations (see also 5 U.S.C. Part I, Chapter 5, Subchapter II, Section 552a—Records Maintained on Individuals). Record retention and disposition rules are approved by the Archivist of the United States and applied appropriately.

**SYSTEM MANAGER AND ADDRESS:**

Director, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

For records in this system that are unrelated to enforcement, designation, blocking, and other investigations, individuals wishing to be notified if they are named in this system of records must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of record sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to Assistant Director, Disclosure Services, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

For records in this system that are unrelated to enforcement, designation, blocking, and other investigations, individuals wishing to gain access to records maintained in the system under their name or personal identifier must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of record sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to Assistant Director, Disclosure Services, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The request must be made in accordance with 5 U.S.C. 552a and 31 CFR 1.2. See also 31 CFR part 1, subpart C, appendix A, Paragraph 8.

Records in this system that are related to enforcement, designation, blocking, and other investigations are exempt from the provisions of the Privacy Act as permitted by 5 U.S.C. 552a(k)(2). Exempt records may not be disclosed for purposes of determining if the system contains a record pertaining to a particular individual, inspecting records, or contesting the content of records. Although the investigative records that underlie the SDN List may not be accessed for purposes of inspection or for contest of content of records, the SDN List, which is produced from some of the investigative records in the system, is made public. Persons (entities and individuals) on this public list who wish to request the removal of their name from this list may submit a de-listing petition according to the provisions of 31 CFR 501.807.

**RECORD ACCESS PROCEDURES:**

Address inquiries to: Assistant Director, Disclosure Services, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Record access procedures'' above.

**RECORD SOURCE CATEGORIES:**

(1) From the individual, from OFAC investigations, and from other Federal, state, local, or foreign agencies;

(2) Applicants for Treasury Department licenses under laws or regulations administered by OFAC;

(3) From individuals and entities that are designated or otherwise subject to sanctions and the representatives of such individuals and entities; or

(4) Custodians or other holders of blocked assets.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Records in this system related to enforcement, designation, blocking, and other investigations are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2). See 31 CFR 1.36.

## TREASURY/DO .144

**SYSTEM NAME:**

General Counsel Litigation Referral and Reporting System—Treasury/DO.

**SYSTEM LOCATION:**

U.S. Department of the Treasury, Office of the General Counsel, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons who are parties, plaintiff or defendant, in civil litigation or administrative proceedings involving or concerning the Department of the Treasury or its officers or employees. The system does not include information on every civil litigation or administrative proceeding involving the Department of the Treasury or its officers and employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records consists of a computer data base containing information related to litigation or administrative proceedings involving or concerning the Department of the Treasury or its officers or employees.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 31 U.S.C. 301.

**PURPOSE(S):**

The purposes of this system are: (1) To record service of process and the receipt of other documents relating to litigation or administrative proceedings involving or concerning the Department of the Treasury or its officers or employees, and (2) to respond to inquiries from Treasury personnel, personnel from the Justice Department and other agencies, and other persons concerning whether service of process or other documents have been received by the Department in a particular litigation or proceeding.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent

information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court order or in connection with criminal law proceedings;

(4) Disclose information to foreign governments in accordance with formal or informal international agreements;

(5) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation, and

(7) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by the name of the non-government party involved in the case, and case number and docket number (when available).

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. Also, Background checks are made on employees.

**RETENTION AND DISPOSAL:**

The computer information is maintained for up to ten years or more after a record is created.

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of the General Counsel, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) An identification of the record system; and (2) an identification of the category and type of records sought. This system contains records that are exempt under 31 CFR 1.36; 5 U.S.C. 552a(j)(2); and (k)(2). Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Record access procedures'' above.

**RECORD SOURCE CATEGORIES:**

Treasury Department Legal Division, Department of Justice Legal Division.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

This system is exempt from 5 U.S.C. 552a(d), (e)(1), (e)(3), (e)(4)(G), (H), (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36)

## TREASURY/DO .149

**SYSTEM NAME:**

Foreign Assets Control Legal Files—Treasury/DO.

**SYSTEM LOCATION:**

U.S. Department of the Treasury, Office of the Chief Counsel (Foreign Assets Control), 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons who are or who have been parties in litigation or other matters involving the Office of Foreign Assets Control (OFAC) or involving statutes and regulations administered by the OFAC found at 31 CFR subtitle B, chapter V.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information and documents relating to litigation and other matters involving the OFAC or statutes and regulations administered by the OFAC.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 301; 50 U.S.C. App. 5(b); 50 U.S.C. 1701 et seq; 22 U.S.C. 287(c); and other statutes relied upon by the President to impose economic sanctions.

**PURPOSE(S):**

These records are maintained to assist in providing legal advice to the OFAC and the Department of the Treasury regarding issues of compliance, enforcement, investigation, and implementation of matters related to OFAC and the statutes and regulations administered by the agency. These records are also maintained to assist in litigation related to OFAC and the statutes and regulations administered by the OFAC.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Prosecute, defend, or intervene in litigation related to the OFAC and statutes and regulations administered by OFAC,

(2) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order or license;

(3) Disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's official functions;

(4) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings;

(5) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains, and

(6) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name of the non-government party involved in the matter.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

Records are periodically updated and maintained as long as needed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of Chief Counsel, Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide identification as set forth in 31 CFR Subpart C, Part 1, Appendix A, Section 8.

**RECORD ACCESS PROCEDURES:**

Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Record access procedures'' above.

**RECORD SOURCE CATEGORIES:**

Pleadings and other materials filed during course of a legal proceeding, discovery obtained pursuant to applicable court rules; materials obtained by Office of Foreign Assets Control action; material obtained pursuant to requests made to other Federal agencies; orders, opinions, and decisions of courts.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .190

**SYSTEM NAME:**

Office of Inspector General Investigations Management Information System—Treasury/DO.

**SYSTEM LOCATION:**

Office of Inspector General (OIG), Assistant Inspector General for Investigations and Counsel to the Inspector General, 740 15th St. NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(A) Current and former employees of the Department of the Treasury and persons whose association with current and former employees relate to the alleged violations of the rules of ethical conduct for employees of the Executive Branch, the Department's supplemental standards of ethical conduct, the Department's rules of conduct, merit system principles, or any other criminal or civil misconduct, which affects the integrity or facilities of the Department of the Treasury. The names of individuals and the files in their names may be: (1) Received by referral; or (2) initiated at the discretion of the Office of Inspector General in the conduct of assigned duties. Investigations of allegations against OIG employees are managed by the Deputy Inspector General and the Counsel to the Inspector General; records are maintained in the Office of General Counsel.

(B) Individuals who are: witnesses; complainants; confidential or non-confidential informants; suspects; defendants; parties who have been identified by the Office of Inspector General, constituent units of the Department of the Treasury, other agencies, or members of the general public in connection with the authorized functions of the Inspector General.

(C) Current and former senior Treasury and bureau officials who are the subject of investigations initiated and conducted by the Office of the Inspector General.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(A) Letters, memoranda, and other documents citing complaints of alleged criminal or administrative misconduct. (B) Investigative files which include: (1) Reports of investigations to resolve allegations of misconduct or violations of law with related exhibits, statements, affidavits, records or other pertinent documents obtained during investigations; (2) transcripts and documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring; (3) reports from or to other law enforcement bodies; (4) prior criminal or noncriminal records of individuals as they relate to the investigations; and (5) reports of actions taken by management personnel regarding misconduct and reports of legal actions resulting from violations of statutes referred to the Department of Justice for prosecution.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Inspector General Act of 1978, as amended, 5 U.S.C.A. App.3; 5 U.S.C. 301; 31 U.S.C. 321.

**PURPOSE(S):**

The records and information collected and maintained in this system are used (a) to receive allegations of violations of the standards of ethical conduct for employees of the Executive Branch (5 CFR part 2635), the Treasury Department's supplemental standards of ethical conduct (5 CFR part 3101), the Treasury Department's rules of conduct (31 CFR part 0), the Office of Personnel Management merit system principles, or any other criminal or civil law; and (b) to prove or disprove allegations which the OIG receives that are made against Department of the Treasury employees,

contractors and other individuals associated with the Department of the Treasury.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation;

(2) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, or where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(3) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit;

(4) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation or settlement negotiations in response to a court order or in connection with criminal law proceedings;

(5) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(7) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(8) Provide information to the Office of Inspector General of the Department of Justice with respect to investigations involving the former Bureau of Alcohol, Tobacco and Firearms; and to the Office of Inspector General of the Department of Homeland Security with respect to investigations involving the Secret Service, the former Customs Service, and Federal Law Enforcement Training Center, for such OIG's use in carrying out their obligations under the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3 and other applicable laws;

(9) Provide information to other OIGs, the Council of Inspectors General on Integrity and Efficiency, and the Department of Justice, in connection with their review of Treasury OIG's exercise of statutory law enforcement authority, pursuant to section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3; and

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved alphabetically by name of subject or complainant, by case number, by special agent name, by employee identifying number, by victim, and by witness case number.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The records are available to Office of Inspector General personnel who have an appropriate security clearance on a need-to-know basis.

**RETENTION AND DISPOSAL:**

Investigative records are stored on-site for 3 years at which time they are retired to the Federal Records Center, Suitland, Maryland, for temporary storage. In most instances, the files are destroyed when 10 years old. However, if the records have significant or historical value, they are retained on-site for 3 years, then retired to the Federal Records Center for 22 years, at which time they are transferred to the National Archives and Records Administration for permanent retention. In addition, an automated investigative case tracking system is maintained on-site; the case information deleted 15 years after the case is closed, or when no longer needed, whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Inspector General for Investigations, 740 15th St. NW., Suite 500, Washington, DC 20220. For internal investigations: Counsel to the Inspector General, 740 15th St. NW., Suite 510, Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual, or for contesting the contents of a record.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

See ''Categories of individuals'' above. This system contains investigatory material for which sources need not be reported.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

## TREASURY/DO .191

**SYSTEM NAME:**

Human Resources and Administrative Records System.

**SYSTEM LOCATION:**

Office of Inspector General (OIG), headquarters and Boston Field office. (See appendix A)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(A) Current and former employees of the Office of Inspector General.

(B) Individuals who are: Witnesses; complainants; confidential or non-confidential informants; suspects; defendants; parties who have been identified by the Office of Inspector General, constituent units of the Department of the Treasury, other agencies, or members of the general public, in connection with the authorized functions of the Inspector General.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Personnel system records contain OIG employee name, positions, grade and series, salaries, and related information pertaining to OIG employment; (2) Tracking records contain status information on audits, investigations and other projects; (3) Timekeeping records contain hours worked and leave taken; (4) Equipment inventory records contain information about government property assigned to employees.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Inspector General Act of 1978, as amended; (5 U.S.C. Appendix 3) 5 U.S.C. 301; and 31 U.S.C. 321.

**PURPOSE(S):**

The purpose of the system is to: (1) Effectively manage OIG resources and projects; (2) capture accurate statistical data for mandated reports to the Secretary of the Treasury, the Congress, the Office of Management and Budget, the Government Accountability Office, the Council of the Inspectors General on Integrity and Efficiency and other Federal agencies; and (3) provide accurate information critical to the OIG's daily operation, including employee performance and conduct; and (4) collect and maintain information provided to the OIG concerning violation of any criminal or civil law made against or regarding individuals associated or claiming association with the Department of the Treasury.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

(1) A record from the system of records, which indicates, either by itself or in combination with other information, a violation or potential violation of law, whether civil or criminal, and whether arising by statute, regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local, or foreign agency or other public authority that investigates or prosecutes or assists in investigation or prosecution of such violation, or enforces or implements or assists in enforcement or implementation of the statute, rule, regulation or order; or to any private entity in order to prevent loss or damage to any party by reason of false or fictitious financial instruments or documents.

(2) A record from the system of records may be disclosed to a Federal, State, local, or foreign agency or other public authority, or to private sector (i.e., non-Federal, State, or local government) agencies, organizations, boards, bureaus, or commissions, which maintain civil, criminal, or other relevant enforcement records or other pertinent records, such as current licenses in order to obtain information relevant to an agency investigation, audit, or other inquiry, or relevant to a decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, the issuance of a license, grant or other benefit, the establishment of a claim, or the initiation of administrative, civil, or criminal action. Disclosure to the private sector may be made only when the records are properly constituted in accordance with agency requirements; are accurate, relevant, timely and complete; and the disclosure is in the best interest of the Government.

(3) A record from the system of records may be disclosed to a Federal, State, local, or foreign agency or other public authority, or private sector (i.e., non-Federal, State, or local government) agencies, organizations, boards, bureaus, or commissions, if relevant to the recipient's hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, the issuance of a license, grant or other benefit, the establishment of a claim, or the initiation of administrative, civil, or criminal action. Disclosure to the private sector may be made only when the records are properly constituted in accordance with agency requirements; are accurate, relevant, timely and complete; and the disclosure is in the best interest of the Government.

(4) A record from the system of records may be disclosed to any source, private or public, to the extent necessary to secure from such source information relevant to a legitimate agency investigation, audit, or other inquiry.

(5) A record from the system of records may be disclosed to the Department of Justice when the agency or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

(6) A record from the system of records may be disclosed in a proceeding before a court or adjudicative body, when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

(7) A record from the system of records may be disclosed to a Member of Congress from the record of an individual in response to an inquiry from the Member of Congress made at the request of that individual.

(8) A record from the system of records may be disclosed to the Department of Justice and the Office of Government Ethics for the purpose of obtaining advice regarding a violation or possible violation of statute, regulation, rule or order or professional ethical standards.

(9) A record from the system of records may be disclosed to the Office of Management and Budget for the purpose of obtaining its advice regarding agency obligations under the Privacy Act, or in connection with the review of private relief legislation.

(10) A record from the system of records may be disclosed in response to a court order issued by a Federal agency having the power to subpoena records of other Federal agencies if, after careful review, the OIG determines that the records are both relevant and necessary to the requesting agency's needs and the purpose for which the records will be

used is compatible with the purpose for which the records were collected.

(11) A record from the system of records may be disclosed to a private contractor for the purpose of compiling, organizing, analyzing, programming, or otherwise refining records subject to the same limitations applicable to U.S. Department of Treasury officers and employees under the Privacy Act.

(12) A record from the system of records may be disclosed to a grand jury agent pursuant either to a Federal or State grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury provided that the Grand Jury channels its request through the cognizant U.S. Attorney, that the U.S. Attorney is delegated the authority to make such requests by the Attorney General, that she or he actually signs the letter specifying both the information sought and the law enforcement purposes served. In the case of a State Grand Jury subpoena, the State equivalent of the U.S. Attorney and Attorney General shall be substituted.

(13) A record from the system of records may be disclosed to a Federal agency responsible for considering suspension or debarment action where such record would be relevant to such action.

(14) A record from the system of records may be disclosed to an entity or person, public or private, where disclosure of the record is needed to enable the recipient of the record to take action to recover money or property of the United States Department of the Treasury, where such recovery will accrue to the benefit of the United States, or where disclosure of the record is needed to enable the recipient of the record to take appropriate disciplinary action to maintain the integrity of the programs or operations of the Department of the Treasury.

(15) A record from the system of records may be disclosed to a Federal, state, local or foreign agency, or other public authority, for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by an agency, to support civil and criminal law enforcement activities of any agency and its components, and to collect debts and over payments owed to any agency and its components.

(16) A record from the system of records may be disclosed to a public or professional licensing organization when such record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

(17) A record from the system of records may be disclosed to the Office of Management and Budget, the Government Accountability Office, the Council of the Inspectors General on Integrity and Efficiency and other Federal agencies for mandated reports.

(18) Disclosures are not made outside of the Department, except to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Debtor information may also be furnished, in accordance with 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to consumer reporting agencies to encourage repayment of an overdue debt.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locker door. Electronic records are stored in magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Most files are accessed by OIG employee name, employee identifying number, office, or cost center. Some records may be accessed by entering equipment or project information. Financial instrument fraud database information may be accessed by name and address.

**SAFEGUARDS:**

Access is limited to OIG employees who have a need for such information in the course of their work. Offices are locked. A central network server is password protected by account name and user password. Access to records on electronic media is controlled by computer passwords. Access to specific system records is further limited and controlled by computer security programs limiting access to authorized personnel.

**RETENTION AND DISPOSAL:**

Records are periodically updated to reflect changes and are retained as long as necessary.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Inspector General for Management, 740 15th St. NW., Suite 510, Washington, DC 20220. For records provided by the general public concerning financial instrument fraud: Counsel to the Inspector General, 740 15th St. NW., Suite 510, Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, or to gain access to records maintained in this system may inquire in accordance with instructions appearing in 31 CFR part 1, subpart C, appendix A. Individuals must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identifying number, dates of employment, or similar information). Address inquiries to Director, Disclosure Services (see ''Record access procedures'' below).

**RECORD ACCESS PROCEDURES:**

Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURE:**

See ''Record access procedures'' above.

**RECORD SOURCE CATEGORIES:**

Current and former employees of the OIG; persons providing information concerning or alleged to be committing financial instrument fraud.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## Appendix A—Addresses of OIG Offices

**HEADQUARTERS:**

Department of the Treasury, Office of Inspector General, Office of the Assistant Inspector General for

Management, 740 15th Street NW., Suite 510, Washington, DC 20220.

Field Location:

Contact System Manager for addresses.

Department of the Treasury, Office of Inspector General, Office of Audit, Boston, MA 02110–3350.

## TREASURY/DO .193

### SYSTEM NAME:

Employee Locator and Automated Directory System—Treasury/DO.

### SYSTEM LOCATION:

Main Treasury Building, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information on all employees of the Department is maintained in the system if the proper locator card is provided.

### CATEGORIES OF RECORDS IN THE SYSTEM:

Name, office telephone number, bureau, office symbol, building, room number, home address and phone number, and person to be notified in case of emergency.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

### PURPOSE(S):

The Employee Locator and Automated Directory System is maintained for the purpose of providing current locator and emergency information on all DO employees.

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside of the Department, except to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

#### STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

#### RETRIEVABILITY:

Records may be retrieved by name.

#### SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearance or permissions.

#### RETENTION AND DISPOSAL:

Records are kept as long as needed, updated periodically and destroyed by burning.

### SYSTEM MANAGER(S) AND ADDRESS:

Manager, Telephone Operator Services Branch, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

### NOTIFICATION PROCEDURE:

See ''System manager'' above.

### RECORD ACCESS PROCEDURES:

See ''System manager'' above.

### CONTESTING RECORD PROCEDURES:

See ''System manager'' above.

### RECORD SOURCE CATEGORIES:

Information is provided by individual employees. Necessary changes made if requested.

### EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

## TREASURY/DO .194

### SYSTEM NAME:

Circulation System—Treasury.

### SYSTEM LOCATION:

Department of the Treasury, Library, Room 1428–MT, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who borrow library materials or receive library materials on distribution. The system also contains records concerning interlibrary loans to local libraries which are not subject to the Privacy Act.

### CATEGORIES OF RECORDS IN THE SYSTEM:

Records of items borrowed from the Treasury Library collection and patron records are maintained on a central computer. Records are maintained by name of borrower, office locator information, and title of publication.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

### PURPOSE(S):

Track circulation of library materials and their borrowers.

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) These records may be used to disclose information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; and

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

#### STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

#### RETRIEVABILITY:

Records may be retrieved by borrower name, bar code number, publication title, or its associated bar code number.

#### SAFEGUARDS:

Records in this system are safeguarded in accordance with

applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

Only current data are maintained on-line. Records for borrowers are deleted when the employee leaves Treasury.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Librarian, Department of the Treasury, Room 1428–MT, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Inquiries should be addressed to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Patron information records are completed by borrowers and library staff.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .196

**SYSTEM NAME:**

Treasury Information Security Program—Treasury/DO.

**SYSTEM LOCATION:**

Department of the Treasury, Office of Security Programs, Room 3180 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Each Department of the Treasury official, by name and position title, who has been delegated the authority to downgrade and declassify national security information and who is not otherwise authorized to originally classify.

(2) Each Department of the Treasury official, by name and position title, who has been delegated the authority for original classification of national security information, exclusive of officials specifically given this authority via Treasury Order 105–19.

(3) Department of the Treasury employees who have valid security violations as a result of the improper handling/processing, safeguarding or storage of classified information or collateral national security systems.

(4) Department of the Treasury employees (including detailees, interns and select contractors) who receive initial, specialized and/or annual refresher training on requirements for protecting classified information.

(5) Department of the Treasury employees and contractors issued a courier card authorizing them to physically transport classified information within and between Treasury, bureaus, and other U.S. Government agencies and departments.

(6) Departmental Offices officials and bureau heads issued Department of the Treasury credentials as evidence of their authority and empowerment to execute and fulfill the duties of their appointed office and those Departmental Offices officials authorized to conduct official investigations and/or inquiries on behalf of the U.S. Government.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Report of Authorized Downgrading and Declassification Officials, (2) Report of Authorized Classifiers, (3) Record of Security Violation, (4) Security Orientation Acknowledgment, (5) Request and Receipt for Courier Card, and (6) Request and Receipt for Official Credential.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 13526, dated December 29, 2009 and the Treasury Security Manual, TD P 15–71, last updated October 28, 2011.

**PURPOSE(S):**

The system is designed to (1) oversee compliance with Executive Order 13526, Information Security Oversight Office Directives, the Treasury Security Manual, and Departmental security programs, (2) ensure proper classification of national security information, (3) record details of valid security violations, (4) assist in determining the effectiveness of information security programs affecting classified and sensitive information, and (5) safeguard classified information throughout its entire life-cycle.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:**

These records may be used to disclose pertinent information to:

(1) Appropriate Federal agencies responsible for the protection of national security information, or reporting a security violation of, or enforcing, or implementing, a statute, rule, regulation, or order, or where the Department becomes aware of an indication of a potential violation of civil or criminal law or regulation, rule or order;

(2) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(3) Another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Federal Government is a party to the judicial or administrative proceeding. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a court of competent jurisdiction;

(4) The United States Department of Justice for the purpose of representing or providing legal advice to the Treasury Department (Department) in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

(A) The Department or any component thereof;

(B) Any employee of the Department in his or her official capacity;

(C) Any employee of the Department in his or her individual capacity where the Department of Justice or the Department has agreed to represent the employee; or

(D) The United States, when the Department determines that litigation is likely to affect the Department or any of its components, and

(5) Appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise that there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic media and hard copy files.

**RETRIEVABILITY:**

Records may be retrieved by the name of the official or employee, contractor, detailee or intern, bureau head and/or chief deputy official and position title, where appropriate.

**SAFEGUARDS:**

Secured in security containers and/or controlled space to which access is limited to Office of Security Programs security officials with the need to know.

**RETENTION AND DISPOSAL:**

Records are retained and disposed of in accordance with General Records Schedule 18, with the exception of the Record of Security Violation (retained for a period of two years) and the Security Orientation Acknowledgment, the Request and Receipt for Courier Card, and the Request and Receipt for Official Credential, the remaining records are destroyed and/or updated on an annual basis. Destruction is effected by on-site shredding or other comparable means.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Director, (Information Security), Office of Security Programs, Room 3180 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, gain access to records maintained in this system, or seek to contest its content, must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (See 31 CFR Part 1, Appendix A). Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Record access procedures'' above.

**RECORD SOURCE CATEGORIES:**

The sources of the information are employees of the Department of the Treasury. The information concerning any security violation is reported by Department of the Treasury security officials and by Department of State security officials as concerns Treasury or bureau personnel assigned to overseas U.S. diplomatic posts or missions.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .202

**SYSTEM NAME:**

Drug-Free Workplace Program Records—Treasury/DO.

**SYSTEM LOCATION:**

Records are located within the Office of Human Capital Strategic Management, Room 5224–MT, Department of the Treasury, Departmental Offices, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees of Departmental Offices.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records related to selection, notification, testing of employees, drug test results, and related documentation concerning the administration of the Drug-Free Workplace Program within Departmental Offices.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Pub. L. 100–71; 5 U.S.C. 7301 and 7361; 21 U.S.C. 812; Executive Order 12564, ''Drug-Free Federal Workplace''.

**PURPOSE(S):**

The system has been established to maintain records relating to the selection, notification, and testing of Departmental Offices' employees for use of illegal drugs and drugs identified in Schedules I and II of 21 U.S.C. 812.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:**

(1) These records may be disclosed to a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action, and

(2) to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name of employee, position, title, social security number, I.D. number (if assigned), or any combination of these.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. Procedural and documentary requirements of Public Law 100–71 and the Department of Health and Human Services Guidelines will be followed.

**RETENTION AND DISPOSAL:**

Records are retained for two years and then destroyed by shredding, or, in case of magnetic media, erasure. Written records and test results may be retained up to five years or longer when necessary due to challenges or appeals of adverse action by the employee.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Human Capital Strategic Management, Department of the Treasury, 1500 Pennsylvania Ave. NW., Room 5224–MT, Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the attention of the Director, Disclosure

Services, Departmental Offices, 1500 Pennsylvania Ave. NW., Washington, DC 20220. Individuals must furnish their full name, Social Security Number, the title, series and grade of the position they occupied, the month and year of any drug test(s) taken, and verification of identity as required by 31 CFR part 1, subpart C, appendix A.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should address written inquiries to the attention of the Director, Disclosure Services, Departmental Offices, 1500 Pennsylvania Ave. NW., Washington, DC 20220. Individuals must furnish their full name, Social Security Number, the title, series and grade of the position they occupied, the month and year of any drug test(s) taken, and verification of identity as required by 31 CFR part 1, subpart C, appendix A.

**CONTESTING RECORDS PROCEDURES:**

The Department of the Treasury rules for accessing records, for contesting contents, and appealing initial determinations by the individual concerned are published in 31 CFR part 1, subpart A, appendix A.

**RECORD SOURCE CATEGORIES:**

Records are obtained from the individual to whom the record pertains; Departmental Offices employees involved in the selection and notification of individuals to be tested; contractor laboratories that test urine samples for the presence of illegal drugs; Medical Review Officers; supervisors and managers and other Departmental Offices official engaged in administering the Drug-Free Workplace Program; the Employee Assistance Program, and processing adverse actions based on drug test results.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .207

**SYSTEM NAME:**

Waco Administrative Review Group Investigation—Treasury/DO.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(A) Individuals who were employees or former employees of the Department of the Treasury and its bureaus and persons whose associations with current and former employees relate to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas on February 28, 1993, or any other criminal or civil misconduct, which affects the integrity or facilities of the Department of the Treasury. The names of individuals and the files in their names may be: (1) Received by referral; or (2) developed in the course of the investigation.

(B) Individuals who were: Witnesses; complainants; confidential or non-confidential informants; suspects; defendants who have been identified by the former Office of Enforcement, constituent units of the Department of the Treasury, other agencies, or members of the general public in connection with the authorized functions of the former Office of Enforcement.

(C) Members of the general public who provided information pertinent to the investigation.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(A) Letters, memoranda, and other documents citing complaints of alleged criminal misconduct pertinent to the events leading to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993.

(B) Investigative files that include:

(1) Reports of investigations to resolve allegations of misconduct or violations of law and to comply with the President's specific directive for a fact finding report on the events leading to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993, with related exhibits, statements, affidavits, records or other pertinent documents obtained during investigation;

(2) Transcripts and documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring;

(3) Reports from or to other law enforcement bodies;

(4) Prior criminal or noncriminal records of individuals as they relate to the investigations;

(5) Reports of actions taken by management personnel regarding misconduct and reports of legal actions resulting from violations of statutes referred to the Department of Justice for prosecution;

(6) Videotapes of events pertinent to the events leading to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993, or to the Department of Justice criminal prosecutions;

(7) Audiotapes with transcripts of events pertinent to the events leading to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993, or to the Department of Justice criminal prosecutions;

(8) Photographs and blueprints pertinent to the events leading to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993, or to the Department of Justice criminal prosecutions; and

(9) Drawings, sketches, models portraying events pertinent to the events leading to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993, or to the Department of Justice criminal prosecutions.

**PURPOSE(S):**

The purpose of the system of records was to implement a database containing records of the investigation conducted by the Waco Administrative Review Group, and other relevant information with regard to the events leading to the former Bureau of Alcohol, Tobacco & Firearms execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993, and, where appropriate, to disclose information to other law enforcement agencies that have an interest in the information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 31 U.S.C. 321.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation;

(2) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, or where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(3) Disclose information to a Federal, State, or local agency maintaining civil,

criminal or other relevant enforcement information or other pertinent information that has requested information relevant to or necessary to the requesting agency's hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit;

(4) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court order, where relevant and necessary, or in connection with criminal law proceedings;

(5) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(6) Provide a report to the President and the Secretary of the Treasury detailing the investigation and findings concerning the events leading to the former Bureau of Alcohol, Tobacco & Firearms' execution of search and arrest warrants at the Branch Davidian compound, near Waco, Texas, on February 28, 1993, and

(7) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved alphabetically by name, by number, or other alpha-numeric identifiers.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

Investigative files are stored on-site for six years and indices to those files are stored on-site for ten years. The word processing disks will be retained indefinitely, and to the extent required they will be updated periodically to reflect changes and will be purged when the information is no longer required. Upon expiration of their respective retention periods, the investigative files and their indices will be transferred to the Federal Records Center, Suitland, Maryland, for storage and in most instances destroyed by burning, maceration or pulping when 20 years old. The files are no longer active.

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of the Treasury official prescribing policies and practices: Office of the Under Secretary for Enforcement, Room 4312–MT, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart c, appendix A. Inquiries should be directed to the Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Individuals who were witnesses; complainants; confidential or non-confidential informants; suspects; defendants, constituents of the Department of the Treasury, other Federal, State or local agencies and members of the public.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .209

**SYSTEM NAME:**

Personal Services Contracts (PSCs)—Treasury/DO.

**SYSTEM LOCATION:**

(1) Office of Technical Assistance, Department of the Treasury, 740 15th Street NW., Washington, DC 20005.

(2) Procurement Services Division, Department of the Treasury, Mail stop: 1425 New York Ave. Suite 2100, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have been candidates or were awarded a personal services contract (PSC) with the Department of the Treasury.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, address, telephone number, demographic data, education, contracts, supervisory notes, personnel related information, financial, payroll and medical data and documents pertaining to the individual contractors.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Support for Eastern European Democracy (SEED) Act of 1989 (Pub. L. 101–179), Freedom Support Act (Pub. L. 102–511), Executive Order 12703.

**PURPOSE(S):**

To maintain records pertaining to the awarding of personal services contracts to individuals for the provision of technical services in support of the SEED Act and the FSA, and which establish an employer/employee relationship with the individual.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose:

(1) Pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority, responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(3) Information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) Information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(5) Information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; and

(6) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name of the individual contractor and contract number.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearance or permissions.

**RETENTION AND DISPOSAL:**

Records are periodically updated when a contract is modified. Contract records, including all biographical or other personal data, are retained for the contract period, with disposal after contract completion in accordance with the Federal Acquisition Regulation 4.805.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Director, Office of Technical Assistance, Department of the Treasury, 740 15th Street NW., Washington, DC 20005.

(2) Director, Procurement Services Division, Department of the Treasury, Mail stop: 1425 New York Ave., Suite 2100, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, or to gain access or seek to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Inquiries should be addressed to the Director, Disclosure Services, Departmental Offices, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedures'' above.

**RECORD SOURCE CATEGORIES:**

Information is provided by the candidate, individual Personal tractor, and Treasury employees.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .214

**SYSTEM NAME:**

DC Pensions Retirement Records.

**SYSTEM LOCATION:**

Office of DC Pensions, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. Electronic and paper records are also located at the offices of the District of Columbia government and bureaus of the Department, including the Bureau of the Fiscal Service in Parkersburg, WV, and in Kansas City, MO In addition, certain records are located with contractors engaged by the Department.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(A) Current and former District of Columbia police officers, firefighters, teachers, and judges.

(B) Surviving spouses, domestic partners, children, and/or dependent parents of current and former District of Columbia police officers, firefighters, teachers, or judges, as applicable.

(C) Former spouses and domestic partners of current and former District of Columbia police officers, firefighters, teachers, or judges, as applicable.

(D) Designated beneficiaries of items a, b, and c.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of records include, but are not limited to, identifying information such as: name(s); contact information; Social Security number; employee identification number; service beginning and end dates; annuity beginning and end dates; date of birth; sex; retirement plan; base pay; average base pay; final salary; type(s) of service and dates used to compute length of service; military base pay amount; purchase of service calculation and amount; and/or benefit payment amount(s). The types of records in the system may be:

(a) Documentation comprised of service history/credit, personnel data, retirement contributions, and/or a refund claim upon which a benefit payment(s) may be based.

(b) Medical records and supporting evidence for disability retirement applications and continued eligibility, and documentation regarding the acceptance or rejection of such applications.

(c) Records submitted by a surviving spouse, a child(ren), and/or a dependent parent(s) in support of claims to a benefit payment(s).

(d) Consent forms and other records related to the withholding of income tax from a benefit payment(s).

(e) Retirement applications, including supporting documentation, and acceptance or denial of such applications.

(f) Death claim, including supporting documentation, submitted by a surviving spouse, child(ren), former spouse, and/or beneficiary, that is required to determine eligibility for and receipt of a benefit payment(s), or denial of such claims.

(g) Documentation of enrollment and/or change in enrollment for health and life insurance benefits/eligibility.

(h) Designation(s) of a beneficiary(ies) for a life insurance benefit and/or an unpaid benefit payment.

(i) Court orders submitted by former spouses or domestic partners in support of claims to a benefit payment(s).

(j) Records relating to under- and/or over-payments of benefit payments and other debts arising from the responsibility to administer the retirement plans for District police officers, firefighters, teachers, and judges; and, records relating to other Federal debts owed by recipients of Federal benefit payments. Records relating to the refunds of employee contributions.

(k) Records relating to child support orders, bankruptcies, tax levies, and garnishments.

(l) Records used to determine a total benefit payment and/or if the benefit payment is a District or Federal liability.

(m) Correspondence received from current and former police officers, firefighters, teachers, and judges; including their surviving spouses, domestic partners, children, former spouses, dependent parents, and/or beneficiaries as applicable.

(n) Records relating to time served on behalf of a recognized labor organization.

(o) Records relating to benefit payment enrollment and/or change to enrollment for direct deposit to an individual's financial institution.

(p) Records submitted by a beneficiary in support of claims to a benefit payment.

(q) Records relating to educational program enrollments of age 18 and older children of former police officers, firefighters, teachers, and judges.

(r) Records related to the mental or physical handicap condition of age 18 and older children of former police officers, firefighters, teachers, and judges.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Title XI, subtitle A, chapters 1 through 9, and subtitle C, chapter 4, subchapter B of the Balanced Budget Act of 1997 (as amended), Pub, L.No. 105–33.

**PURPOSE(S):**

These records may provide information on which to base determinations of (1) eligibility for, and computation of, benefit payments and refund of contribution payments; (2) direct deposit elections into a financial institution; (3) eligibility and premiums for health insurance and group life insurance; (4) withholding of income taxes; (5) under- or over-payments to recipients of a benefit payment, and for overpayments, the recipient's ability to repay the overpayment; (6) Federal payment made from the General Fund to the District of Columbia Pension Fund and the District of Columbia Judicial Retirement and Survivors Annuity Fund; (7) impact to the Funds due to proposed Federal and/or District legislative changes; and (8) District or Federal liability for benefit payments to former District police officers, firefighters, and teachers, including survivors, dependents, and beneficiaries who are receiving a Federal and/or District benefit.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records and the information in these records may be used:

(1) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Department becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(2) To disclose information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(3) To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

(4) To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Federal Government is a party to the judicial or administrative proceeding. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

(5) To disclose information to the National Archives and Records Administration for use in records management inspections and its role as an Archivist.

(6) To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when:

(A) The Department or any component thereof;

(B) Any employee of the Department in his or her official capacity;

(C) Any employee of the Department in his or her individual capacity where the Department of Justice or the Department has agreed to represent the employee;

(D) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; or

(E) The Federal funds established by the Act to pay benefit payments is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Department is deemed by the Department of Justice or the Department to be relevant and necessary to the litigation provided that the disclosure is compatible with the purpose for which records were collected.

(7) To disclose information to contractors, subcontractors, financial agents, grantees, auditors, actuaries, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Department, including the District.

(8) To disclose information needed to adjudicate a claim for benefit payments or information needed to conduct an analytical study of benefits being paid under such programs as: Social Security Administration's Old Age, Survivor, and Disability Insurance and Medical Programs; military retired pay programs; and Federal civilian employee retirement programs (Civil Service Retirement System, Federal Employees Retirement System, and other Federal retirement systems).

(9) To disclose to the U.S. Office of Personnel Management (OPM) and to the District, information necessary to verify the election, declination, or waiver of regular and/or optional life insurance coverage, or coordinate with contract carriers the benefit provisions of such coverage.

(10) To disclose to health insurance carriers contracting with OPM to provide a health benefits plan under the Federal Employees Health Benefits

Program or health insurance carriers contracting with the District to provide a health benefits plan under the health benefits program for District employees, Social Security numbers and other information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

(11) To disclose to any person possibly entitled to a benefit payment in accordance with the applicable order of precedence or to an executor of a deceased person's estate, information that is contained in the record of a deceased current or former police officer, firefighter, teacher, or judge to assist in properly determining the eligibility and amount of a benefit payment to a surviving recipient, or information that results from such determination.

(12) To disclose to any person who is legally responsible for the care of an individual to whom a record pertains, or who otherwise has an existing, facially-valid Power of Attorney, including care of an individual who is mentally incompetent or under other legal disability, information necessary to assure application or payment of benefits to which the individual may be entitled.

(13) To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an individual covered by the system needed for enforcing child support obligations of such individual.

(14) In connection with an examination ordered by the District or the Department under:

(A) Medical examination procedures; or

(B) Involuntary disability retirement procedures to disclose to the representative of an employee, notices, decisions, other written communications, or any other pertinent medical evidence other than medical evidence about which a prudent physician would hesitate to inform the individual; such medical evidence will be disclosed only to a licensed physician, designated in writing for that purpose by the individual or his or her representative. The physician must be capable of explaining the contents of the medical record(s) to the individual and be willing to provide the entire record(s) to the individual.

(15) To disclose information to any source from which the Department seeks additional information that is relevant to a determination of an individual's eligibility for, or entitlement to, coverage under the applicable retirement, life insurance, and health benefits program, to the extent necessary to obtain the information requested.

(16) To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

(17) To disclose to an agency responsible for the collection of income taxes the information required by an agreement authorized by law to implement voluntary income tax withholdings from benefit payments.

(18) To disclose to the Social Security Administration the names and Social Security numbers of individuals covered by the system when necessary to determine: (1) their vital status as shown in the Social Security Master Records; and (2) whether retirees receiving benefit payments under the District's retirement plan for police officers and firefighters with post-1956 military service credit are eligible for or are receiving old age or survivors benefits under section 202 of the Social Security Act based upon their wages and self-employment income.

(19) To disclose to Federal, State, and local government agencies information to help eliminate fraud and abuse in a benefits program administered by a requesting Federal, State, or local government agency; to ensure compliance with Federal, State, and local government tax obligations by persons receiving benefits payments; and/or to collect debts and overpayments owed to the requesting Federal, State, or local government agency.

(20) To disclose to a Federal agency, or a person or an organization under contract with a Federal agency to render collection services for a Federal agency as permitted by law, in response to a written request from the head of the agency or his designee, or from the debt collection contractor, data concerning an individual owing a debt to the Federal Government.

(21) To disclose, as permitted by law, information to a State court or administrative agency in connection with a garnishment, attachment, or similar proceeding to enforce alimony or a child support obligation.

(22) To disclose information necessary to locate individuals who are owed money or property by a Federal, State or local government agency, or by a financial institution or similar institution, to the government agency owing or otherwise responsible for the money or property (or its agent).

(23) To disclose information necessary in connection with the review of a disputed claim for health benefits to a health plan provider participating in the Federal Employees Health Benefits Program or the health benefits program for employees of the District, and to a program enrollee or covered family member or an enrollee or covered family member's authorized representative.

(24) To disclose information to another Federal agency for the purpose of effecting administrative or salary offset against a person employed by that agency, or who is receiving or eligible to receive benefit payments from the agency when the Department as a creditor has a claim against that person relating to benefit payments.

(25) To disclose information concerning delinquent debts relating to benefit payments to other Federal agencies for the purpose of barring delinquent debtors from obtaining Federal loans or loan insurance guarantees pursuant to 31 U.S.C. 3720B.

(26) To disclose to State and local governments information used for collecting delinquent debts relating to benefit payments.

(27) To disclose to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(28) To disclose to a former spouse information necessary to explain how his/her former spouse's benefit was computed.

(29) To disclose to a surviving spouse, domestic partner, surviving child, dependent parent, and/or legal guardian information necessary to explain how his/her survivor benefit was computed.

(30) To disclose to a spouse or dependent child (or court-appointed guardian thereof) of an individual covered by the system, upon request, whether the individual (a) changed his/her election from a self-and-family to a

self-only health and/or life insurance benefit enrollment, (b) changed his/her additional survivor benefit election, and/or (c) received a lump-sum refund of his/her retirement contributions.

**DISCLOSURES TO CONSUMER REPORTING AGENCIES:**

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies in accordance with 31 U.S.C. 3711(e).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in this system are stored in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM in secure facilities.

**RETRIEVABILITY:**

Records may be retrieved by various combinations of name; date-of-birth; Social Security number; and/or an automatically assigned, system-generated number of the individual to whom they pertain.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

In accordance with National Archives and Records Administration retention schedule (N1–056–09–001) records on a claim for retirement, including salary and service history, survivor annuity elections, and tax and other withholdings are destroyed after 115 years from the date of the former police officer's, firefighter's, teacher's or judge's birth; or 30 years after the date of his/her death, if no application for benefits is received. If a survivor or former spouse receives a benefit payment, such record is destroyed after his/her death. All other records covered by this system may be destroyed in accordance with approved District and Department guidelines. Paper records are destroyed by shredding or burning. Records in electronic media are electronically erased using accepted techniques.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of DC Pensions, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its contents, should contact the system manager. The system manager will refer the individual to the appropriate point of contact depending on the circumstances of the request. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.
b. Date of birth.
c. Social Security number.
d. Signature.
e. Contact information.

Individuals requesting amendment of their records must also follow the Department's Privacy Act regulations regarding verification of identity and amendment of records (31 CFR part 1 subpart C, appendix A).

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure,'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure,'' above.

**RECORD SOURCE CATEGORIES:**

The information in this system is obtained from:

a. The individual to whom the information pertains.
b. District pay, leave, and allowance records.
c. Health benefits and life insurance plan systems records maintained by the Office of Personnel Management, the District, and health and life insurance carriers.
d. Federal civilian retirement systems.
e. Military retired pay system records.
f. Social Security Old Age, Survivor, and Disability Insurance and Medicare Programs.
g. Official personnel folders.
h. The individual's co-workers and supervisors.
i. Physicians who have examined or treated the individual.
j. Surviving spouse, domestic partners, child(ren), former spouse(s), former domestic partner(s), and/or dependent parent(s) of the individual to whom the information pertains.
k. State courts or support enforcement agencies.
l. Credit bureaus and financial institutions.
m. Government Offices of the District of Columbia, including the DC Retirement Board.
n. The General Services Administration National Payroll Center.
o. Educational institutions.
p. The Department of the Treasury.
q. The Department of Justice.
r. Death reporting sources

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .216

**SYSTEM NAME:**

Treasury Security Access Control and Certificates Systems.

**SYSTEM LOCATION:**

Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Treasury employees, contractors, media representatives, other individuals requiring access to Treasury facilities or to receive government property, and those who need to gain access to a Treasury DO cyber asset including the network, LAN, desktops and notebooks.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's application for security/access badge, individual's photograph, fingerprint record, special credentials, allied papers, registers, and logs reflecting sequential numbering of security/access badges. The system also contains information needed to establish accountability and audit control of digital certificates that have been assigned to personnel who require access to Treasury DO cyber assets including the DO network and LAN as well as those who transmit electronic data that requires protection by enabling the use of public key cryptography. It also contains records that are needed to authorize an individual's access to a Treasury network.

Records may include the individual's name, organization, work telephone number, Social Security Number, date of birth, Electronic Identification Number, work email address, username and password, country of birth, citizenship, clearance and status, title, home address and phone number, biometric data including fingerprint minutia, and alias names.

Records on the creation, renewal, replacement or revocation of digital certificates, including evidence provided by applicants for proof of identity and authority, sources used to verify an applicant's identity and authority, and the certificates issued,

denied and revoked, including reasons for denial and revocation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 31 U.S.C. 321; the Electronic Signatures in Global and National Commerce Act, Pub. L. 106–229, and E.O. 9397 (SSN).

**PURPOSE(S):**

The purpose is to: improve security to both Treasury DO physical and cyber assets; maintain records concerning the security/access badges issued; restrict entry to installations and activities; ensure positive identification of personnel authorized access to restricted areas; maintain accountability for issuance and disposition of security/access badges; maintain an electronic system to facilitate secure, on-line communication between Federal automated systems, between Federal employees or contractors, and/or the public, using digital signature technologies to authenticate and verify identity; provide a means of access to Treasury cyber assets including the DO network, LAN, desktop and laptops; and to provide mechanisms for non-repudiation of personal identification and access to DO sensitive cyber systems including but not limited to human resource, financial, procurement, travel and property systems as well as tax, econometric and other mission critical systems. The system also maintains records relating to the issuance of digital certificates utilizing public key cryptography to employees and contractors for the purpose of transmission of sensitive electronic material that requires protection.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, state, local and foreign agencies for the purpose of enforcing and investigating administrative, civil or criminal law relating to the hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit;

(2) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a court order where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) A contractor for the purpose of compiling, organizing, analyzing, programming, or otherwise refining records to accomplish an agency function subject to the same limitations applicable to U.S. Department of the Treasury officers and employees under the Privacy Act;

(4) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(6) The Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, Federal Labor Relations Authority, and the Office of Special Counsel for the purpose of properly administering Federal personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and regulations;

(7) Representatives of the National Archives and Records Administration (NARA) who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906;

(8) Other Federal agencies or entities when the disclosure of the existence of the individual's security clearance is needed for the conduct of government business, and

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are stored as electronic media and paper records.

**RETRIEVABILITY:**

Records may be retrieved by individual's name, social security number, electronic identification number and/or access/security badge number.

**SAFEGUARDS:**

Entrance to data centers and support organization offices is restricted to those employees whose work requires them to be there for the system to operate. Identification (ID) cards are verified to ensure that only authorized personnel are present. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols which are periodically changed. Reports produced from the remote printers are in the custody of personnel and financial management officers and are subject to the same privacy controls as other documents of like sensitivity. Access is limited to authorized employees. Paper records are maintained in locked safes and/or file cabinets. Electronic records are password-protected. During non-work hours, records are stored in locked safes and/or cabinets in a locked room.

Protection and control of any sensitive but unclassified (SBU) records are in accordance with TD P 71–10, Department of the Treasury Security Manual. Access to the records is available only to employees responsible for the management of the system and/or employees of program offices who have a need for such information.

**RETENTION AND DISPOSAL:**

In accordance with General Records Schedule 18, records are maintained on government employees and contractor employees for the duration of their employment at the Treasury Department. Records on separated employees are destroyed or sent to the Federal Records Center.

**SYSTEM MANAGER(S) AND ADDRESS:**

Departmental Offices:

a. Director, Office of Security Programs, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

b. Chief Information Officer, 1750 Pennsylvania Ave. NW., Washington, DC 20006.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendix A.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

The information contained in these records is provided by or verified by the subject individual of the record, supervisors, other personnel documents, and non-Federal sources such as private employers.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .217

**SYSTEM NAME:**

National Financial Literacy Challenge Records—Treasury/DO.

**SYSTEM LOCATION:**

Department of the Treasury, Office of Financial Education, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals covered by the system will be:

- high school students age 13 and older, and
- their teachers who participate in the test.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system of records will include, for Challenge participants, the high schools' names and addresses; students' names and scores; high school names of award winners; teachers' names, teachers' business email addresses and business phone numbers.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301 and Executive Order 13455.

**PURPOSE(S):**

The records in this system will be used to identify students whose scores on the Challenge meet the guidelines for award recognition and to distribute the awards to the teachers, who in turn will distribute the awards to the students. Aggregate data and reports related to the program that may be generated and used for analysis will be in a form that is not individually identifiable.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) A court, magistrate, or administrative tribunal, in the course of presenting evidence, including disclosures to opposing counsel or witnesses, for the purpose of civil discovery, litigation, or settlement negotiations or in response to a court order, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(2) A congressional office in response to an inquiry made at the request of the individual (or the individual's parents or guardians) to whom the record pertains;

(3) A contractor or a sponsor, operating in conjunction with the Office of Financial Education to the extent necessary to present appropriate awards;

(4) Appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm, and

(5) These records may be used to disclose award winners to the participant's high school.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Students' scores may be retrieved by name, teacher, and school. Teacher data may be retrieved by name and contact information of the teacher. School information may be retrieved by name and location of the school.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. All official access to the system of records is on a need-to-know basis only, as authorized by the Office of Financial Education of the U.S. Treasury Department. Procedural and physical safeguards, such as personal accountability, audit logs, and specialized communications security, will be utilized. Each user of computer systems containing records will have individual passwords (as opposed to group passwords) for which the user is responsible. Access to computerized records will be limited, through use of access codes, encryption techniques, and/or other internal mechanisms, to those whose official duties require access.

**RETENTION AND DISPOSAL:**

Records will be destroyed at the earliest possible date consistent with applicable records retention policies.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Outreach, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, gain access to records maintained in this system, or seek to contest its content, must submit a written request containing the following elements: (1) identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (See 31 CFR part 1, appendix A). Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORDS ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORDS PROCEDURES:**

See ''Notification procedure'' above.

**RECORDS SOURCE CATEGORIES:**

Student test takers; high school points of contact; and Department of the Treasury records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .218

**SYSTEM NAME:**

Making Home Affordable Program—Treasury/DO.

**SYSTEM LOCATION:**

The Office of Financial Stability, Department of the Treasury, Washington, DC. Other facilities that maintain this system of records are located in: Urbana, MD, Dallas, TX, and a backup facility located in Reston, VA, all belonging to the Federal National Mortgage Association (Fannie Mae); in McLean, VA, Herndon, VA, Reston, VA,

Richardson, TX, and Denver, CO, facilities operated by or on behalf of the Federal Home Loan Mortgage Corporation (Freddie Mac); and facilities operated by or on behalf of the Bank of New York Mellon (BNYM) in Nashville, TN, and a backup facility located in Somerset, NJ. Fannie Mae, Freddie Mac and Bank of New York Mellon have been designated as Financial Agents (Financial Agents) for the MHA Program.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system of records contains information about mortgage borrowers that is submitted to the Department or its Financial Agents by loan servicers that participate in the MHA Program. Information collected pursuant to the MHA Program is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other business entities and organizations is not subject to the Privacy Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records contains loan-level information about individual mortgage borrowers (including loan records, financial records, and borrower eligibility records, when appropriate). Typically, these records include, but are not limited to, the individual's name, Social Security Number, mailing address, monthly income, criminal history status as referenced in Section 1481 of the Dodd-Frank statute, the location of the property subject to the loan, property value information, payment history, type of mortgage, and property sale information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Emergency Economic Stabilization Act of 2008 (Pub. L. 110–343) and Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203) (2010).

**PURPOSE(S):**

The purpose of this system of records is to facilitate administration of the MHA Program by the Department and its Financial Agents, including enabling them to (i) collect and utilize information collected from mortgage loan servicers, including loan-level information about individual mortgage holders and borrower eligibility; and (ii) produce reports on the performance of the MHA Program, such as reports that concern loan modification eligibility and exception reports that identify certain issues that loan servicers may experience with servicing loans.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting violations of or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a potential violation of civil or criminal law or regulation;

(2) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court order where arguably relevant to a proceeding, or in connection with criminal law proceedings;

(4) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Provide information to third parties during the course of a Department investigation as it relates to the MHA Program to the extent necessary to obtain information pertinent to that investigation;

(6) Disclose information to a consumer reporting agency to use in obtaining credit reports;

(7) Disclose information to a debt collection agency for use in debt collection services;

(8) Disclose information to a Financial Agent of the Department, its employees, agents, and contractors, or to a contractor of the Department, for the purpose of assessing the quality of and efficient administration of the MHA Program and compliance with relevant guidelines, agreements, directives and requirements, and subject to the same or equivalent limitations applicable to the Department's officers and employees under the Privacy Act;

(9) Disclose information originating or derived from participating loan servicers back to the same loan servicers as needed, for the purposes of audit, quality control, and reconciliation and response to borrower requests about that same borrower;

(10) Disclose information to Financial Agents, financial institutions, financial custodians, and contractors to: (a) Process mortgage loan modification applications, including, but not limited to, enrollment forms; (b) implement, analyze and modify programs relating to the MHA Program; (c) investigate and correct erroneous information submitted to the Department or its Financial Agents; (d) compile and review data and statistics and perform research, modeling and data analysis to improve the quality of services provided under the MHA Program or otherwise improve the efficiency or administration of the MHA Program; or (e) develop, test and enhance computer systems used to administer the MHA Program; with all activities subject to the same or equivalent limitations applicable to the Department's officers and employees under the Privacy Act;

(11) Disclose information to financial institutions, including banks and credit unions, for the purpose of disbursing payments and/or investigating the accuracy of information required to complete transactions pertaining to the MHA Program and for administrative purposes, such as resolving questions about a transaction;

(12) Disclose information to the appropriate Federal financial regulator or State financial regulator, or to the appropriate Consumer Protection agency, if that agency has jurisdiction over the subject matter of a complaint or inquiry, or the entity that is the subject of the complaint or inquiry;

(13) Disclose information and statistics to the Department of Housing & Urban Development (HUD), the Department of Commerce (Commerce), Federal financial regulators, the U.S. Department of Justice (DOJ), and the Federal Housing Finance Agency to assess the quality and efficiency of services provided under the MHA Program, to ensure compliance with the MHA Program and other laws, and to report on the Program's overall execution and progress;

(14) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised

information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(15) Disclose information to the DOJ for its use in providing legal advice to the Department or in representing the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, where the use of such information by the DOJ is deemed by the Department to be relevant and necessary to the litigation, and such proceeding names as a party of interests:

(a) The Department or any component thereof, including the Office of Financial Stability (OFS);

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the Department determines that litigation is likely to affect the Department or any of its components, including OFS; and

(16) Disclose information to an authorized recipient who has assured the Department or a Financial Agent of the Department in writing that the record will be used solely for research purposes designed to assess the quality of and efficient administration of the MHA Program, subject to the same or equivalent limitations applicable to the Department's officers and employees under the Privacy Act.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Information contained in the system of records is stored in a transactional database and an operational data store. Information from the system will also be captured in hard-copy form and stored in filing cabinets managed by personnel working on the MHA Program.

##### RETRIEVABILITY:

Information about individuals may be retrieved from the system by reference including the mortgage borrower's name, Social Security Number, address, criminal history status, or loan number.

##### SAFEGUARDS:

Safeguards designed to protect information contained in the system against unauthorized disclosure and access include, but are not limited to: (i) Department and Financial Agent policies and procedures governing privacy, information security, operational risk management, and change management; (ii) requiring Financial Agent employees to adhere to a code of conduct concerning the aforementioned policies and procedures; (iii) conducting background checks on all personnel with access to the system of records; (iv) training relevant personnel on privacy and information security; (v) tracking and reporting incidents of suspected or confirmed breaches of information concerning borrowers; (vi) establishing physical and technical perimeter security safeguards; (vii) utilizing antivirus and intrusion detection software; (viii) performing risk and controls assessments and mitigation, including production readiness reviews; (ix) establishing security event response teams; and (x) establishing technical and physical access controls, such as role-based access management and firewalls. Loan servicers that participate in the MHA Program (i) have agreed in writing that the information they provide to the Department or to its Financial Agents is accurate, and (ii) have submitted a ''click through'' agreement on a Web site requiring the loan servicer to provide accurate information in connection with using the Program Web site. In addition, the Department's Financial Agents will conduct loan servicer compliance reviews to validate data collection controls, procedures, and records.

##### RETENTION AND DISPOSAL:

Information is retained in the system on back-up tapes or in hard-copy form for seven years, except to the extent that either (i) the information is subject to a litigation hold or other legal retention obligation, in which case the data is retained as mandated by the relevant legal requirements, or (ii) the Department and its Financial Agents need the information to carry out the Program. Destruction is carried out by degaussing according to industry standards. Hard copy records are shredded and recycled.

##### SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary, Fiscal Operations and Policy, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

##### NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, to gain access to records maintained in this system, or to amend or correct information maintained in this system, must submit a written request to do so in accordance with the procedures set forth in 31 CFR 1.26-.27. Address such requests to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

##### RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

##### CONTESTING RECORD PROCEDURE:

See ''Notification Procedure'' above.

##### RECORD SOURCE CATEGORIES:

Information about mortgage borrowers contained in the system of records is obtained from loan servicers who participate in the MHA Program, or developed by the Department and its Financial Agents in connection with the MHA Program. Information is not obtained directly from individual mortgage borrowers to whom the information pertains.

##### EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

### TREASURY/DO .219

##### SYSTEM NAME:

TARP Standards for Compensation and Corporate Governance—Executive Compensation Information.

##### SYSTEM LOCATION:

Office of Financial Stability, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Senior Executive Officers or ''SEOs.'' SEOs of TARP recipients will be covered by the system. The term ''SEO'' means an employee of the TARP recipient who is a ''named executive officer,'' as that term is defined by Instruction 1 to Item 402(a)(3) of Regulation S–K of the Federal securities laws. 17 CFR 229.402(a). A TARP recipient that is a ''smaller reporting company,'' as that term is defined by Item 10 of Regulation S–K, 17 CFR 229.10, is required to identify SEOs consistent with the immediately preceding sentence. A TARP recipient that is a ''smaller reporting company'' must identify at least five SEOs, even if only three named executive officers are provided in the disclosure pursuant to Item 402(m)(2) of Regulation S–K, 17 CFR 229.402(m)(2), provided that no employee must be identified as an SEO if the employee's total annual compensation does not exceed $100,000 as defined in Item 402(a)(3)(1) of Regulation S–K. 17 CFR 229.402(a)(3)(1).

b. Most highly compensated employees. Most highly compensated employees of TARP recipients will be covered by the system. The term ''most highly compensated employee'' means the employee of the TARP recipient whose annual compensation is determined to be the highest among all employees of the TARP recipient, provided that, for this purpose, a former employee who is no longer employed as of the first day of the relevant fiscal year of the TARP recipient is not a most highly compensated employee unless it is reasonably anticipated that such employee will return to employment with the TARP recipient during such fiscal year.

c. Other employees. Certain other employees of TARP recipients may be covered by the system in the event that the TARP recipient or the employee requests guidance from the Department with respect to the employee's compensation or the Department otherwise provides guidance with respect to the employee's compensation.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of records include, but are not limited to, identifying information such as:

- name(s), employer;
- employee identification number,
- position, and quantitative and qualitative information with respect to the employee's performance.

The types of records in the system may be:

- Comprehensive compensation data provided by the individual's employer for current and prior years.
- Information relating to compensation plan design and documentation.
- Company performance data relating to compensation plans.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system of records is authorized by 31 U.S.C. 321 as well as section 111 of the Emergency Economic Stabilization Act of 2008 (''EESA''), as amended by the American Recovery and Reinvestment Act of 2009 (''ARRA''). 12 U.S.C. 5221.

**PURPOSE(S):**

The Department of the Treasury collects this information from each TARP recipient in connection with the review of compensation payments and compensation structures applicable to SEOs and certain highly compensated employees. Information with respect to certain payments to highly compensated employees will also be reviewed in connection with a determination of whether such payments were inconsistent with the purposes of section 111 of EESA or TARP, or were otherwise contrary to the public interest.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used:

1. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating or prosecuting a violation of, or enforcing or implementing, a statute, rule, regulation, or order, where the Department becomes aware of a potential violation of civil or criminal law or regulation, rule or order.

2. To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of the individual who is the subject of the record.

3. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Federal Government is a party to the judicial or administrative proceeding. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a court of competent jurisdiction and agency ''Touhy'' regulations are followed. See 31 CFR 1.8 et seq.

4. To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections and its role as an archivist.

5. To disclose information to the United States Department of Justice (''DOJ''), for the purpose of representing or providing legal advice to the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

(A) The Department or any component thereof;

(B) Any employee of the Department in his or her official capacity;

(C) Any employee of the Department in his or her individual capacity where the Department of Justice or the Department has agreed to represent the employee; or

(D) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; and the use of such records by the DOJ is deemed by the DOJ or the Department to be relevant and necessary to the litigation provided that the disclosure is compatible with the purpose for which records were collected.

6. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Department, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Department officers and employees.

7. To appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise that there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

8. In limited circumstances, for the purpose of compiling or otherwise refining records that may be disclosed to the public in the form of summary reports or other analyses provided on a Department Web site.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

These records may be retrieved by various combinations of employer name, individual name, position and/or level of compensation.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the

information that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. Data in electronic format is encrypted or password protected. Direct access is limited to employees within the Office of Financial Stability whose duties require access. The building where the records are maintained is locked after hours and has a 24-hour security guard. Personnel screening and training are employed to prevent unauthorized disclosure.

**RETENTION AND DISPOSAL:**

The records will be maintained indefinitely until a record disposition schedule submitted to the National Archives Records Administration has been approved.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Compliance, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its contents, should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name.
b. Employer.
c. Signature.
d. Contact information.

[Individuals requesting amendment of their records must also follow the Department's Privacy Act regulations regarding verification of identity and amendment of records (31 CFR part 1 subpart C, appendix A).]

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure,'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure,'' above.

**RECORD SOURCE CATEGORIES:**

The information in this system is obtained from the individual's employer.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .220

**SYSTEM NAME:**

SIGTARP Hotline Database.

**SYSTEM LOCATION:**

Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Complainants who contact the SIGTARP Hotline.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Correspondence received from Hotline complainants; (2) records created of verbal communications with Hotline complainants; and (3) records used to process Hotline complaints, including information included in SIGTARP's other systems of records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 5231, 5 U.S.C. App. 3, and 5 U.S.C. 301.

**PURPOSE(S):**

This system consists of complaints received by SIGTARP from individuals and their representatives, oversight committees, and others who conduct business with SIGTARP, and information concerning efforts to resolve these complaints; it serves as a record of the complaints and the steps taken to resolve them.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, foreign, State, local, Tribal or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to another Federal agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(5) Disclose information to the Department of Justice when seeking legal advice, or when (a) the agency or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(6) Disclose information to the appropriate foreign, State, local, Tribal, or other public authority or self-regulatory organization for the purpose of (a) consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or (b) verifying the identity of an individual who has requested access to or amendment or correction of records;

(7) Disclose information to contractors and other agents who have been engaged by the Department or one of its bureaus to provide products or services associated with the Department's or bureau's responsibility arising under the FOIA/PA;

(8) Disclose information to the National Archives and Records Administration for use in records management inspections;

(9) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(10) Disclose information to any source, either private or governmental, to the extent necessary to elicit information relevant to a SIGTARP audit or investigation;

(11) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing personnel actions or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(12) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger; and

(13) Disclose information to persons engaged in conducting and reviewing internal and external peer reviews of the Office of Inspector General to ensure adequate internal safeguards and management procedures exist within any office that had received law enforcement authorization or to ensure auditing standards applicable to government audits by the Comptroller General of the United States are applied and followed.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name of the correspondent and/or name of the individual to whom the record applies.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. The records are accessible to SIGTARP personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons.

**RETENTION AND DISPOSAL:**

Paper records are maintained and disposed of in accordance with a record disposition schedule 12 approved by the National Archives Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

## TREASURY/DO .221

**SYSTEM NAME:**

SIGTARP Correspondence Database.

**SYSTEM LOCATION:**

Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

- (1) correspondents; and
- (2) persons upon whose behalf correspondence was initiated.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

- (1) correspondence received by SIGTARP and responses generated thereto; and
- (2) records used to respond to incoming correspondence,
- including information included in SIGTARP's other systems of records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 5231, 5 U.S.C. App. 3, and 5 U.S.C. 301.

**PURPOSE(S):**

This system consists of correspondence received by SIGTARP from individuals and their representatives, oversight committees, and others who conduct business with SIGTARP and the responses thereto; it serves as a record of in-coming correspondence and the steps taken to respond thereto.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, foreign, State, local, Tribal or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to another Federal agency to (a) permit a decision as to access, amendment or correction of records made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(5) Disclose information to the Department of Justice when seeking legal advice, or when (a) the agency or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by

the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(6) Disclose information to the appropriate foreign, State, local, Tribal, or other public authority or self-regulatory organization for the purpose of (a) consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or (b) verifying the identity of an individual who has requested access to or amendment or correction of records;

(7) Disclose information to contractors and other agents who have been engaged by the Department or one of its bureaus to provide products or services associated with the Department's or bureau's responsibility arising under the FOIA/PA;

(8) Disclose information to the National Archives and Records Administration for use in records management inspections;

(9) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(10) Disclose information to any source, either private or governmental, to the extent necessary to elicit information relevant to a SIGTARP audit or investigation;

(11) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing personnel actions or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(12) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger; and

(13) Disclose information to persons engaged in conducting and reviewing internal and external peer reviews of the Office of Inspector General to ensure adequate internal safeguards and management procedures exist within any office that had received law enforcement authorization or to ensure auditing standards applicable to government audits by the Comptroller General of the United States are applied and followed.

**POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name of the correspondent and/or name of the individual to whom the record applies.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. The records are accessible to SIGTARP personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons.

**RETENTION AND DISPOSAL:**

Paper records are maintained and disposed of in accordance with a record disposition schedule 12 approved by the National Archives Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). See 31 CFR 1.36.

## TREASURY/DO .222

**SYSTEM NAME:**

SIGTARP Investigative MIS Database.

**SYSTEM LOCATION:**

Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

- subjects or potential subjects of investigative activities;
- witnesses involved in investigative activities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) reports of investigations, which may include, but are not limited to, witness statements, affidavits, transcripts, police reports, photographs, documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring, the subject's prior criminal record, vehicle maintenance records, medical records, accident reports, insurance policies, police reports, and other exhibits and documents collected during an investigation;

(2) status and disposition information concerning a complaint or investigation including prosecutive action and/or administrative action;

(3) complaints or requests to investigate;

(4) subpoenas and evidence obtained in response to a subpoena;

(5) evidence logs;

(6) pen registers;

(7) correspondence;

(8) records of seized money and/or property;

(9) reports of laboratory examination, photographs, and evidentiary reports;

(10) digital image files of physical evidence;

(11) documents generated for purposes of SIGTARP's undercover activities;

(12) documents pertaining to the identity of confidential informants; and,

(13) other documents collected and/or generated by the Office of Investigations during the course of official duties.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 5231, 5 U.S.C. App. 3, and 5 U.S.C. 301.

**PURPOSE(S):**

The purpose of this system of records is to maintain information relevant to complaints received by SIGTARP and collected as part of investigations conducted by SIGTARP's Office of Investigations.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, foreign, State, local, Tribal or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to another Federal agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(5) Disclose information to the Department of Justice when seeking legal advice, or when (a) the agency or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(6) Disclose information to the appropriate foreign, State, local, Tribal, or other public authority or self-regulatory organization for the purpose of (a) consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or (b) verifying the identity of an individual who has requested access to or amendment or correction of records;

(7) Disclose information to contractors and other agents who have been engaged by the Department or one of its bureaus to provide products or services associated with the Department's or bureau's responsibility arising under the FOIA/PA;

(8) Disclose information to the National Archives and Records Administration for use in records management inspections;

(9) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(10) Disclose information to any source, either private or governmental, to the extent necessary to elicit information relevant to a SIGTARP audit or investigation;

(11) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing personnel actions or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(12) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger; and

(13) Disclose information to persons engaged in conducting and reviewing internal and external peer reviews of the Office of Inspector General to ensure adequate internal safeguards and management procedures exist within any office that had received law enforcement authorization or to ensure auditing standards applicable to Government audits by the Comptroller General of the United States are applied and followed.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name, Social Security Number, and/or case number.

**SAFEGUARDS:**

The records are accessible to SIGTARP personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons.

**RETENTION AND DISPOSAL:**

These records are currently not eligible for disposal. SIGTARP is in the process of requesting approval from the National Archives and Records Administration of records disposition schedules concerning all records in this system of records.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest

its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

## TREASURY/DO .223

**SYSTEM NAME:**

SIGTARP Investigative Files Database.

**SYSTEM LOCATION:**

Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Subjects or potential subjects of investigative activities; witnesses involved in investigative activities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Reports of investigations, which may include, but are not limited to, witness statements, affidavits, transcripts, police reports, photographs, documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring, the subject's prior criminal record, vehicle maintenance records, medical records, accident reports, insurance policies, police reports, and other exhibits and documents collected during an investigation; (2) status and disposition information concerning a complaint or investigation including prosecutive action and/or administrative action; (3) complaints or requests to investigate; (4) subpoenas and evidence obtained in response to a subpoena; (5) evidence logs; (6) pen registers; (7) correspondence; (8) records of seized money and/or property; (9) reports of laboratory examination, photographs, and evidentiary reports; (10) digital image files of physical evidence; (11) Documents generated for purposes of SIGTARP's undercover activities; (12) documents pertaining to the identity of confidential informants; and, (13) other documents collected and/or generated by the Office of Investigations during the course of official duties.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 5231, 5 U.S.C. App. 3, and 5 U.S.C. 301.

**PURPOSE(S):**

The purpose of this system of records is to maintain information relevant to complaints received by SIGTARP and collected as part of investigations conducted by SIGTARP's Office of Investigations.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, foreign, State, local, Tribal or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to another Federal agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(5) Disclose information to the Department of Justice when seeking legal advice, or when (a) the agency or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(6) Disclose information to the appropriate foreign, State, local, Tribal, or other public authority or self-regulatory organization for the purpose of (a) consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or (b) verifying the identity of an individual who has requested access to or amendment or correction of records;

(7) Disclose information to contractors and other agents who have been engaged by the Department or one of its bureaus to provide products or services associated with the Department's or bureau's responsibility arising under the FOIA/PA;

(8) Disclose information to the National Archives and Records Administration for use in records management inspections;

(9) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(10) Disclose information to any source, either private or governmental, to the extent necessary to elicit

information relevant to a SIGTARP audit or investigation;

(11) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing personnel actions or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(12) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger; and

(13) Disclose information to persons engaged in conducting and reviewing internal and external peer reviews of the Office of Inspector General to ensure adequate internal safeguards and management procedures exist within any office that had received law enforcement authorization or to ensure auditing standards applicable to Government audits by the Comptroller General of the United States are applied and followed.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name, Social Security Number, and/or case number.

**SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is stored. The records are accessible to SIGTARP personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons.

**RETENTION AND DISPOSAL:**

These records are currently not eligible for disposal. SIGTARP is in the process of requesting approval from the National Archives and Records Administration of records disposition schedules concerning all records in this system of records.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

## TREASURY/DO .224

**SYSTEM NAME:**

SIGTARP Audit Files Database.

**SYSTEM LOCATION:**

Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

- auditors,
- certain administrative support staff,
- contractors of SIGTARP, and
- certain subjects and/or witnesses referenced in SIGTARP's audit activities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) audit reports; and

(2) working papers, which may include copies of correspondence, evidence, subpoenas, other documents collected and/or generated by the Office of Audit during the course of official duties.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 5231, 5 U.S.C. App. 3, and 5 U.S.C. 301.

**PURPOSES:**

This system is maintained in order to act as a management information system for SIGTARP audit projects and personnel and to assist in the accurate and timely conduct of audits.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, foreign, State, local, Tribal or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a potential violation of civil or criminal law or regulation;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to another Federal agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(5) Disclose information to the Department of Justice when seeking legal advice, or when (a) the agency or (b) any component thereof, or (c) any employee of the agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to

litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation;

(6) Disclose information to the appropriate foreign, State, local, Tribal, or other public authority or self-regulatory organization for the purpose of (a) consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or (b) verifying the identity of an individual who has requested access to or amendment or correction of records;

(7) Disclose information to contractors and other agents who have been engaged by the Department or one of its bureaus to provide products or services associated with the Department's or bureau's responsibility arising under the FOIA/PA;

(8) Disclose information to the National Archives and Records Administration for use in records management inspections;

(9) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(10) Disclose information to any source, either private or governmental, to the extent necessary to elicit information relevant to a SIGTARP audit or investigation;

(11) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing personnel actions or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(12) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger; and

(13) Disclose information to persons engaged in conducting and reviewing internal and external peer reviews of the Office of Inspector General to ensure adequate internal safeguards and management procedures exist within any office that had received law enforcement authorization or to ensure auditing standards applicable to Government audits by the Comptroller General of the United States are applied and followed.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

Records may be retrieved by name of the auditor, support staff, contractors, or subject of the audit.

**SAFEGUARDS:**

The records are accessible to SIGTARP personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

These records are currently not eligible for disposal. SIGTARP is in the process of requesting approval from the National Archives and Records Administration of records disposition schedules concerning all records in this system of records.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Counsel, Office of the Special Inspector General for the Troubled Asset Relief Program, 1801 L Street NW., Washington, DC 20036.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). See 31 CFR 1.36.

## TREASURY/DO .225

**SYSTEM NAME:**

TARP Fraud Investigation Information System.

**SYSTEM LOCATION:**

Office of Financial Stability, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The TARP Fraud Investigation Information System contains information about:

(a) Individuals that seek, receive or are entrusted with TARP funds;

(b) Individuals that are:

1. Known perpetrators or suspected perpetrators of a known or possible fraud committed or attempted against TARP programs;

2. Directors, officers, partners, proprietors, employees, and agents, of a business entity;

3. Named as possible witnesses;

4. Actual or potential victims of fraud, including but not limited to mortgage fraud; and

5. Individuals or entities who have applied to any of the TARP programs, recipients of TARP program funds and/or benefits, OFS contractors, OFS agents; or

6. Individuals or entities who have or might have information about reported matters.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records contains information on individuals or entities who seek, receive or are entrusted with TARP funds, are the subject of an investigation or in connection with an investigation, undertaken by OFS into allegations of actual or suspected TARP program fraud, waste, and/or abuse. Typically, these records include, but are not limited to, the individual's name, date of birth, Social Security Number, telephone number(s), residential address(es), email or web address(es), driver's license number, vehicle ownership records, prior criminal history, and other exhibits and documents collected during an investigation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

12 U.S.C. 5211 and 18 U.S.C. 1031.

**PURPOSE(S):**

The purpose of this system of records is to maintain a database of investigative materials consisting of complaints, inquiries, and investigative referrals pertaining to alleged fraud, waste, and/or abuse committed or alleged to have been committed by third parties against the TARP programs, and of background inquiries conducted on individuals seeking, receiving or entrusted with TARP funds. Information in the system will allow investigators to determine whether to refer matters to the appropriate authority for further investigation and possible criminal, civil, or administrative action.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used:

1. To disclose pertinent information to appropriate Federal, foreign, State, local, Tribal or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a potential violation of civil or criminal law or regulation.

2. Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

3. Disclose information to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Federal Government is a party to the judicial or administrative proceeding. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a court of competent jurisdiction and agency ''Touhy'' regulations are followed. See 31 CFR 1.8 et seq.

4. To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections and its role as an Archivist.

5. To disclose information to the United States Department of Justice (DOJ), for the purpose of representing or providing legal advice to the Department of the Treasury (Department) in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

(a) The Department or any component thereof;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where the DOJ or the Department has agreed to represent the employee; or

(d) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; and the use of such records by the DOJ is deemed by the DOJ or the Department to be relevant and necessary to the litigation provided that the disclosure is compatible with the purpose for which records were collected.

6. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Department, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Department officers and employees.

7. To appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise that there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

8. To disclose information to the appropriate Federal, foreign, State, local, Tribal, or other public authority or self-regulatory organization for the purpose of consulting as to the propriety of access to or amendment or correction of information obtained from that authority or organization, or verifying the identity of an individual who has requested access to or amendment or correction of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are maintained in both an electronic media and paper records.

**RETRIEVABILITY:**

These records may be retrieved by various combinations of employer name and or individual name.

**SAFEGUARDS:**

Where feasible, data in electronic format is encrypted or password protected. Access to data and records is limited to only those employees within the Office of Financial Stability whose duties require access. Physical records are kept securely locked at a controlled, limited-access facility. Personnel screening and training are employed to prevent unauthorized disclosure.

**RETENTION AND DISPOSAL:**

The records will be maintained indefinitely until a record disposition schedule submitted to the National Archives Records Administration has been approved.

**SYSTEM MANAGER(S) AND ADDRESS:**

Supervisory Fraud Specialist, Office of Financial Stability, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Address inquiries to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(k)(2).

**RECORD ACCESS PROCEDURE:**

See ''Notification Procedure'' above.

**CONTESTING RECORD PROCEDURE:**

See ''Notification Procedure'' above.

**RECORD SOURCE CATEGORIES:**

Information contained in this system is obtained from mortgage servicers, other government agencies or self-regulatory organizations, Treasury's financial agents, commercial databases, and/or witnesses or other third parties having information relevant to an investigation. Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(k)(2).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

## TREASURY/DO .226

**SYSTEM NAME:**

Validating EITC Eligibility with State Data Pilot Project Records –Treasury/DO.

**SYSTEM LOCATION:**

Office of the Fiscal Assistant Secretary, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who file for State-administered public assistance benefits in States participating in the Department's pilot program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records include information pertaining to the Department of the Treasury's pilot project ''Assessing State Data for Validating EITC Eligibility.'' Records include, but are not limited to, the application[s] for State-administered benefits, including subsequent recertification documentation and other documents supporting eligibility for State-administered benefit programs. The records may contain taxpayer names, Taxpayer Identification Numbers, Social Security Numbers, and other representative authorization information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Consolidated Appropriations Act, 2010 (Pub. L. 111–117, 123 Stat. 3034, 3171–3172); 5 U.S.C. 301; 31 U.S.C. 321.

**PURPOSE:**

The purpose of this system is to determine whether data maintained by up to five States in their public assistance and other databases can assist in identifying both ineligible individuals who receive improper Earned Income Tax Credit payments and eligible individuals who are not claiming the EITC.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the Department determines that the purpose of the disclosure is compatible with the purpose for which the Department collected the records, and no privilege is asserted.

(1) Disclose to the appropriate State agencies responsible for validating results of the data matching initiative with specific individual case file research.

(2) Provide information to a Congressional Office in response to an inquiry made at the request of the individual to whom the records pertain.

(3) Disclose information to a contractor, including a consultant hired by Treasury, to the extent necessary for the performance of a contract.

(4) To appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(5) Disclose information to the National Archives and Records Administration (''NARA'') for use in its records management inspections and its role as an Archivist.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

**RETRIEVABILITY:**

By taxpayer name and Taxpayer Identification Number, Social Security Number, employer identification number, or similar number assigned by the IRS.

**SAFEGUARDS:**

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access. The facilities have 24-hour on-site security.

**RETENTION AND DISPOSAL:**

Electronic and paper records will be maintained indefinitely until a records disposition schedule is approved by the National Archives and Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Assistant Secretary for Fiscal Operations and Policy, Office of the Fiscal Assistant Secretary, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Inquiries should be addressed as in ''Record Access Procedures'' below.

**RECORDS ACCESS PROCEDURES:**

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Inquiries should be addressed to Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**CONTESTING RECORDS PROCEDURES:**

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. For all other records, see ''Records Access Procedures'' above.

**RECORDS SOURCE CATEGORIES:**

Records in this system are provided by the States' department for public assistance and health services, and/or the departments of revenue for the States participating in the pilot project.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**TREASURY/DO .301**

**SYSTEM NAME:**

TIGTA General Personnel and Payroll.

**SYSTEM LOCATION:**

National Headquarters, 1401 H Street NW., Washington, DC 20005, field offices listed in Appendices A and B, Bureau of Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, and Transaction Processing Center, U.S. Department of Agriculture, National Finance Center.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former TIGTA employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system consists of a variety of records relating to personnel actions and determinations made about TIGTA employees. These records contain data on individuals required by the Office of Personnel Management (OPM) and which may also be contained in the Official Personnel Folder (OPF). This system may also contain letters of commendation, recommendations for awards, awards, reprimands, adverse or disciplinary charges, and other records which OPM and TIGTA require or permit to be maintained. This system may include records that are maintained in support of a personnel action such as a position management or position classification action, a reduction-in-force action, and priority placement actions. Other records maintained about an individual in this system are performance appraisals and related records, expectation and payout records, employee performance file records, suggestion files, award files, financial and tax records, back pay files, jury duty records, outside employment statements, clearance upon separation documents, unemployment compensation records, adverse and disciplinary action files, supervisory drop files, records relating to personnel actions, furlough and recall records, work measurement records, emergency notification records, and employee locator and current address records. This system includes records created and maintained for purposes of administering the payroll system. Time-reporting records include timesheets and records indicating the number of hours by TIGTA employee attributable to a particular project, task, or audit. This system also includes records related to travel expenses and/or costs. This system includes records concerning employee participation in the Telecommuting program. This system also contains records relating to life and health insurance, retirement coverage, designations of beneficiaries, and claims for survivor or death benefits.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3, and 5 U.S.C. 301, 1302, 2951, 4506, Ch. 83, 87, and 89.

**PURPOSE(S):**

This system consists of records compiled for personnel, payroll and time-reporting purposes. In addition, this system contains all records created and/or maintained about employees as required by the Office of Personnel Management (OPM) as well as documents relating to personnel matters and determinations. Retirement, life, and health insurance benefit records are collected and maintained in order to administer the Federal Employee's Retirement System (FERS), Civil Service Retirement System (CSRS), Federal Employee's Group Life Insurance Plan, and, the Federal Employees' Health Benefit Program.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosures of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party of the litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties in order to obtain information pertinent and necessary for the hiring or retention of an individual and/or to obtain information pertinent to an investigation;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(10) Provide information to educational institutions for recruitment and cooperative education purposes;

(11) Provide information to a Federal, State, or local agency so that the agency may adjudicate an individual's eligibility for a benefit;

(12) Provide information to a Federal, State, or local agency or to a financial institution as required by law for payroll purposes;

(13) Provide information to Federal agencies to effect inter-agency salary offset and administrative offset;

(14) Provide information to a debt collection agency for debt collection services;

(15) Respond to State and local authorities for support garnishment interrogatories;

(16) Provide information to private creditors for the purpose of garnishment of wages of an employee if a debt has been reduced to a judgment;

(17) Provide information to a prospective employer of a current or former TIGTA employee;

(18) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger;

(19) Provide information to the Office of Workers' Compensation, Veterans Administration Pension Benefits Program, Social Security (Old Age, Survivor and Disability Insurance) and Medicare Programs, Federal civilian employee retirement systems, and other Federal agencies when requested by that program, for use in determining an individual's claim for benefits;

(20) Provide information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program;

(21) Provide information to hospitals and similar institutions to verify an employee's coverage in the Federal Employees' Health Benefits Program;

(22) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3, and

(23) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic media, paper records, and microfiche.

**RETRIEVABILITY:**

Name, Social Security Number, and/or claim number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Records are maintained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedule, Nos. 1 and 2.

**SYSTEM MANAGER(S) AND ADDRESS:**

General Personnel Records—Associate Inspector General for Mission Support/Chief Financial Officer. Time-reporting records: (1) For Office of Audit employees—Deputy Inspector General for Audit; (2) For Office of Chief Counsel employees—Chief Counsel; (3) For Office of Investigations employees—Deputy Inspector General for Investigations; (4) For Office of Inspections and Evaluations employees—Deputy Inspector General for Inspections and Evaluations; (5) For Office of Information Technology employees—Chief Information Officer; and (6) For Office of Mission Support/Chief Financial Officer employees—Associate Inspector General for Mission Support/Chief Financial Officer—1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005.

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Information in this system of records either comes from the individual to whom it applies, is derived from information supplied by that individual, or is provided by Department of the Treasury and other Federal agency personnel and records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .302

**SYSTEM NAME:**

TIGTA Medical Records.

**SYSTEM LOCATION:**

(1) Health Improvement Plan Records—Office of Investigations, 1401 H Street NW., Washington, DC 20005 and field division offices listed in Appendix A; and, (2) All other records of: (a) Applicants and current TIGTA employees: Office of Mission Support/Chief Financial Officer, TIGTA, 1401 H Street NW., Washington, DC 20005 and/or Bureau of Public Debt, 200 Third Street, Parkersburg, WV 26106–1328; and, (b) former TIGTA employees: National Personnel Records Center, 9700 Page Boulevard, St. Louis, MO 63132.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Applicants for TIGTA employment; (2) Current and former TIGTA employees; (3) Applicants for disability retirement; and, (4) Visitors to TIGTA offices who require medical attention while on the premises.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Documents relating to an applicant's mental/physical ability to perform the duties of a position; (2) Information relating to an applicant's rejection for a position because of medical reasons; (3) Documents relating to a current or former TIGTA employee's mental/physical ability to perform the duties of the employee's position; (4) Disability retirement records; (5) Health history questionnaires, medical records, and other similar information for employees participating in the Health Improvement Program; (6) Fitness-for-duty examination reports; (7) Employee assistance records; (8) Injury compensation records relating to on-the-

job injuries of current or former TIGTA employees; and, (9) Records relating to the drug testing program.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3, 5 U.S.C. 301, 3301, 7301, 7901, and Ch. 81, 87 and 89.

**PURPOSE(S):**

To maintain records related to employee physical exams, fitness-for-duty evaluations, drug testing, disability retirement claims, participation in the Health Improvement Program, and worker's compensation claims. In addition, these records may be used for purposes of making suitability and fitness-for duty determinations.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

With the exception of Routine Use ''(1),'' none of the other Routine Uses identified for this system of records are applicable to records relating to drug testing under Executive Order 12564 ''Drug-Free Federal Work Place.'' Further, such records shall be disclosed only to a very limited number of officials within the agency, generally only to the agency Medical Review Official (MRO), the administrator of the agency Employee Assistance Program, and the management official empowered to recommend or take adverse action affecting the individual.

Records may be used to:

(1) Disclose the results of a drug test of a Federal employee pursuant to an order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action;

(2) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(3) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(5) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(6) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(7) Provide information to third parties in order to obtain information pertinent and necessary for the hiring or retention of an individual and/or to obtain information pertinent to an investigation;

(8) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(9) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(10) Provide information to Federal or State agencies responsible for administering Federal benefits programs and private contractors engaged in providing benefits under Federal contracts;

(11) Disclose information to an individual's private physician where medical considerations or the content of medical records indicate that such release is appropriate;

(12) Disclose information to other Federal or State agencies to the extent provided by law or regulation;

(13) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger;

(14) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3, and

(15) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records, electronic media, and x-rays.

**RETRIEVABILITY:**

Records are retrievable by name, Social Security Number, date of birth and/or claim number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Records are maintained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedule, No. 1.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Health Improvement Program records—Deputy Inspector General for Investigations, TIGTA, 1401 H Street NW., Washington, DC 20005; and, (2)

All other records—Associate Inspector General for Mission Support/Chief Financial Officer, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart c, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Section, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005.

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

(1) The subject of the record; (2) Medical personnel and institutions; (3) Office of Workers' Compensation personnel and records; (4) Military Retired Pay Systems Records; (5) Federal civilian retirement systems; (6) General Accounting Office pay, leave allowance cards; (7) OPM Retirement, Life Insurance and Health Benefits Records System and Personnel Management Records System; (8) Department of Labor; and, (9) Federal Occupation Health Agency.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .303

**SYSTEM NAME:**

TIGTA General Correspondence.

**SYSTEM LOCATION:**

National Headquarters, 1401 H Street NW., Washington, DC 20005, and field offices listed in Appendices A and B.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Initiators of correspondence; and, (2) Persons upon whose behalf the correspondence was initiated.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Correspondence received by TIGTA and responses generated thereto; and, (2) Records used to respond to incoming correspondence. Special Categories of correspondence may be included in other systems of records described by specific notices.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3 and 5 U.S.C. 301.

**PURPOSE(S):**

This system consists of correspondence received by TIGTA from individuals and their representatives, oversight committees, and others who conduct business with TIGTA and the responses thereto; it serves as a record of in-coming correspondence and the steps taken to respond thereto.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosures of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings or in response to a subpoena where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) Provide information to the news media, in accordance with guidelines contained in 28 CFR 50.2;

(8) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(9) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3, and

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic media.

**RETRIEVABILITY:**

By name of the correspondent and/or name of the individual to whom the record applies.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords

and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Paper records are maintained and disposed of in accordance with a record disposition schedule approved by the National Archives Records Administration. TIGTA is in the process of requesting approval for a record retention schedule for electronic records maintained in this system. These electronic records will not be destroyed until TIGTA receives such approval.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Inspector General for Mission Support/Chief Financial Officer, TIGTA, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2). Non-exempt sources of information include: (1) Initiators of the correspondence; and (2) Federal Treasury personnel and records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

## TREASURY/DO .304

**SYSTEM NAME:**

TIGTA General Training Records.

**SYSTEM LOCATION:**

National Headquarters, 1401 H Street NW., Washington, DC 20005; Federal Law Enforcement Training Center (FLETC), Glynco, GA 31524.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) TIGTA employees; and, (2) Other Federal or non-Government individuals who have participated in or assisted with training programs as instructors, course developers, or interpreters.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Course rosters; (2) Student registration forms; (3) Nomination forms; (4) Course evaluations; (5) Instructor lists; (6) Individual Development Plans (IDPs); (7) Counseling records; (8) Examination and testing materials; (9) Payment records; (10) Continuing professional education requirements; (11) Officer safety files and firearm qualification records; and, (12) Other training records necessary for reporting and evaluative purposes.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3, 5 U.S.C. 301 and Ch. 41, and Executive Order 11348, as amended by Executive Order 12107.

**PURPOSE(S):**

These records are collected and maintained to document training received by TIGTA employees.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties to the extent necessary to obtain information pertinent to the training request or requirements and/or in the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(10) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3, and

(11) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has

been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper and electronic media.

**RETRIEVABILITY:**

Name, Social Security Number, course title, date of training, and/or location of training.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Records are maintained and disposed in accordance with the appropriate National Archives and Records Administration General Records Schedule, No. 1.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) For records concerning Office of Investigations employees—Deputy Inspector General for Investigations; (2) For records concerning Office of Audit employees—Deputy Inspector General for Audit; (3) For Office of Chief Counsel employees—Chief Counsel; and, (4) For Office of Inspections and Evaluations—Deputy Inspector General for Inspections and Evaluations; (5) For Office of Information Technology employees—Chief Information Officer; and, (6) For Office of Mission Support/Chief Financial Officer employees—Associate Inspector General for Mission Support/Chief Financial Officer—1401 H Street NW., Washington, DC, 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005.

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

(1) The subject of the record; and, (2) Treasury personnel and records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .305

**SYSTEM NAME:**

TIGTA Personal Property Management Records.

**SYSTEM LOCATION:**

Office of Information Technology, TIGTA, 1401 H Street NW., Washington, DC 20005.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former TIGTA employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information concerning personal property assigned to TIGTA employees including descriptions and identifying information about the property, custody receipts, property passes, maintenance records, and other similar records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3, 5 U.S.C. 301, and 41 CFR Subtitle C Ch. 101 and 102.

**PURPOSE(S):**

The purpose of this system is to maintain records concerning personal property, including but not limited to, computers and other similar equipment, motor vehicles, firearms and other law enforcement equipment, communication equipment, computers, fixed assets, credit cards, telephone calling cards, credentials, and badges assigned to TIGTA employees for use in their official duties.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Disclose information to the Equal Employment Opportunity Commission,

Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(10) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3, and

(11) To appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper and electronic media.

**RETRIEVABILITY:**

Indexed by name and/or identification number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Records are maintained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules, Nos. 4 and 10.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Inspector General for Mission Support/Chief Financial Officer, Office of Mission Support/Chief Financial Officer, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005.

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

(1) The subject of the record; (2) Treasury personnel and records; (3) Vehicle maintenance facilities; (4) Property manufacturer; and, (5) Vehicle registration and licensing agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## TREASURY/DO .306

**SYSTEM NAME:**

TIGTA Recruiting and Placement Records.

**SYSTEM LOCATION:**

Office of Mission Support/Chief Financial Officer, NW. 1401 H Street NW., Washington, DC 20005 and/or Bureau of Public Debt, 200 Third Street, Parkersburg, WV 26106–1328.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Applicants for employment; and, (2) Current and former TIGTA employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Application packages and Resumes; (2) Related correspondence; and, (3) Documents generated as part of the recruitment and hiring process.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3, 5 U.S.C. 301 and Ch. 33, and Executive Orders 10577 and 11103.

**PURPOSE(S):**

The purpose of this system is to maintain records received from applicants applying for positions with TIGTA and relating to determining eligibility for employment.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties to the extent necessary to obtain information pertinent to the

recruitment, hiring, and/or placement determination and/or during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(10) Disclose information to officials of Federal agencies for purposes of consideration for placement, transfer, reassignment, and/or promotion of TIGTA employees;

(11) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3, and

(12) To appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper and electronic media.

**RETRIEVABILITY:**

Records are indexed by name, Social Security Number, and/or vacancy announcement number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access disposal.

**RETENTION AND DISPOSAL:**

Records in this system are maintained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedule, No. 1.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Inspector General for Mission Support/Chief Financial Officer, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(k)(5) and (k)(6).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

(1) The subject of the record; (2) Office of Personnel Management; and, (3) Treasury personnel and records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records in this system have been designated as exempt from 5 U.S.C. 552a (c)(3), (d)(1), (2), (3), and (4), (e)(1), (e)(4)(G), (H), and (I), and (f) pursuant to 5 U.S.C. 552a (k)(5) and (k)(6). See 31 CFR 1.36.

## TREASURY/DO .307

**SYSTEM NAME:**

TIGTA Employee Relations Matters, Appeals, Grievances, and Complaint Files.

**SYSTEM LOCATION:**

Office of Mission Support/Chief Financial Officer, TIGTA, 1401 H Street NW., Washington, DC 20005.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current, former, and prospective TIGTA employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Requests, (2) Appeals, (3) Complaints, (4) Letters or notices to the subject of the record, (5) Records of hearings, (6) Materials relied upon in making any decision or determination, (7) Affidavits or statements, (8) Investigative reports, and, (9) Documents effectuating any decisions or determinations.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app 3 and 5 U.S.C. 301, Ch. 13, 31, 33, 73, and 75.

**PURPOSE(S):**

This system consists of records compiled for administrative purposes concerning personnel matters affecting current, former, and/or prospective TIGTA employees.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of

Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Provide information to Executive agencies, including, but not limited to the Office of Personnel Management, Office of Government Ethics, and General Accounting Office in order to obtain legal and/or policy guidance;

(10) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(11) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3, and

(12) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper and electronic media.

**RETRIEVABILITY:**

Indexed by the name of the individual and case number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subjects of a background investigation, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Records are maintained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedule, No. 1.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Inspector General for Mission Support/Chief Financial Officer, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

(1) The subject of the records; (2) Treasury personnel and records; (3) Witnesses; (4) Documents relating to the appeal, grievance, or complaint; and, (5) EEOC, MSPB, and other similar organizations.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

This system may contain investigative records that are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). (See 31 CFR 1.36.)

## TREASURY/DO .308

**SYSTEM NAME:**

TIGTA Data Extracts.

**SYSTEM LOCATION:**

National Headquarters, 1401 H Street NW., Washington, DC 20005, Office of Mission Support/Chief Financial Officer, 4800 Buford Highway, Chamblee, GA 30341, and Office of Investigations, Strategic Enforcement Division, 550 Main Street, Cincinnati, OH 45202.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) The subjects or potential subjects of investigations; (2) Individuals who have filed, are required to file tax returns, or are included on tax returns, forms, or other information filings; (3) Entities who have filed or are required to file tax returns, IRS forms, or information filings as well as any individuals listed on the returns, forms and filings; and, (4) Taxpayer representatives.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Data extracts from various databases maintained by the Internal Revenue Service consisting of records collected in performance of its tax administration responsibilities as well as records maintained by other governmental agencies, entities, and public record sources. This system also contains information obtained via TIGTA's program of computer matches.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3 and 5 U.S.C. 301.

**PURPOSE(S):**

This system consists of data extracts from various electronic systems of

records maintained by governmental agencies and other entities. The data extracts generated by TIGTA are used for audit and investigative purposes and are necessary to identify and deter fraud, waste, and abuse in the programs and operations of the Internal Revenue Service (IRS) and related entities as well as to promote economy, efficiency, and integrity in the administration of the internal revenue laws and detect and deter wrongdoing by IRS and TIGTA employees.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(10) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3; and

(11) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic media.

**RETRIEVABILITY:**

By name, Social Security Number, Taxpayer Identification Number, and/or employee identification number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

TIGTA is in the process of requesting approval of a new record retention schedule concerning the records in this system of records. These records will not be destroyed until TIGTA receives approval from the National Archives and Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Inspector General for Mission Support/Chief Financial Officer, TIGTA, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Washington, DC 20005. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above. 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2). Non-exempt record source categories include the following: Department of the Treasury personnel and records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). (See 31 CFR 1.36.)

## TREASURY/DO .309

**SYSTEM NAME:**

TIGTA Chief Counsel Case Files.

**SYSTEM LOCATION:**

Office of Chief Counsel, 1401 H Street NW., Washington, DC 20005.

**CATEGORIES OF INDIVIDUALS:**

Parties to and persons involved in litigations, actions, personnel matters, administrative claims, administrative appeals, complaints, grievances, advisories, and other matters assigned to, or under the jurisdiction of, the Office of Chief Counsel.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Memoranda, (2) Complaints, (3) Claim forms, (4) Reports of Investigations, (5) Accident reports, (6) Witness statements and affidavits, (7) Pleadings, (8) Correspondence, (9) Administrative files, (10) Case management documents, and (11) Other records collected or generated in response to matters assigned to the Office of Chief Counsel.

**PURPOSE(S):**

This system contains records created and maintained by the Office of Chief Counsel for purposes of providing legal service to TIGTA.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3, and 5 U.S.C. 301.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to, or necessary to, the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purposes of litigating an action or seeking legal advice;

(6) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to an investigation or matter under consideration;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Provide information to Executive agencies, including, but not limited to the Office of Personnel Management, Office of Government Ethics, and General Accounting Office;

(10) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties;

(11) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3; and

(12) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic media.

**RETRIEVABILITY:**

Records are retrievable by the name of the person to whom they apply and/or by case number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of a background investigation, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Paper records are maintained and disposed of in accordance with a record disposition schedule approved by the National Archives and Records Administration. TIGTA is in the process of requesting approval for a record retention schedule for electronic records maintained in this system. These electronic records will not be destroyed until TIGTA receives such approval.

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of Chief Counsel, TIGTA, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records in this system are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2). Non-exempt record source categories include the following: (1) Department of Treasury personnel and records, (2) The subject of the record, (3) Witnesses, (4) Parties to disputed matters of fact or law, (5) Congressional inquiries, and, (6) Other Federal agencies including, but not limited to, the Office of Personnel Management, the Merit Systems Protection Board, and the Equal Employment Opportunities Commission.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some of the records in this system are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5)(e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). (See 31 CFR 1.36.)

## TREASURY/DO .310

**SYSTEM NAME:**

TIGTA Chief Counsel Disclosure Branch Records.

**SYSTEM LOCATION:**

Office of Chief Counsel, Disclosure Branch, TIGTA, 1401 H Street NW., Washington, DC 20005.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Requestors for access and amendment pursuant to the Privacy Act of 1974, 5 U.S.C. 552a; (2) Subjects of requests for disclosure of records; (3) Requestors for access to records pursuant to 26 U.S.C. 6103; (4) TIGTA employees who have been subpoenaed or requested to produce TIGTA documents or testimony on behalf of TIGTA in judicial or administrative proceedings; (5) Subjects of investigations who have been referred to another law enforcement authority; (6) Subjects of investigations who are parties to a judicial or administrative proceeding in which testimony of TIGTA employees or production of TIGTA documents has been sought; and, (7) Individuals initiating correspondence or inquiries processed or controlled by the Disclosure Section.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Requests for access to and/or amendment of records, (2) Responses to such requests, (3) Records processed and released in response to such requests, (4) Processing records, (5) Requests or subpoenas for testimony, (6) Testimony authorizations, (7) Referral letters, (8) Documents referred, (9) Record of disclosure forms, and (10) Other supporting documentation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301 and 552a, 26 U.S.C 6103, and 31 CFR 1.11.

**PURPOSE(S):**

The purpose of this system is to enable compliance with applicable Federal disclosure laws and regulations, including statutory record-keeping requirements. In addition, this system will be utilized to maintain records obtained and/or generated for purposes of responding to requests for access, amendment, and disclosure of TIGTA records.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing, or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law, or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to an investigation or matter under consideration.

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to Section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3; and

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and/or electronic media.

**RETRIEVABILITY:**

Name of the requestor, name of the subject of the investigation, and/or name of the employee requested to produce documents or to testify.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

TIGTA is in the process of requesting approval for a record retention schedule for records maintained in this system. These records will not be destroyed until TIGTA receives such approval.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Counsel, TIGTA, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records in this system are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2). Non-exempt record source categories include the following: (1) Department of Treasury personnel and records, (2) Incoming requests, and (3) Subpoenas and requests for records and/or testimony.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

This system may contain records that are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). (See 31 CFR 1.36.)

## TREASURY/DO .311

**SYSTEM NAME:**

TIGTA Office of Investigations Files.

**SYSTEM LOCATION:**

National Headquarters, Office of Investigations, 1401 H Street NW., Washington, DC 20005 and Field Division offices listed in Appendix A.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) The subjects or potential subjects of investigations; (2) The subjects of complaints received by TIGTA; (3) Persons who have filed complaints with TIGTA; (4) Confidential informants; and (5) TIGTA Special Agents.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Reports of investigations, which may include, but are not limited to, witness statements, affidavits, transcripts, police reports, photographs, documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring, the subject's prior criminal record, vehicle maintenance records, medical records, accident reports, insurance policies, and other exhibits and documents collected during an investigation; (2) Status and disposition information concerning a complaint or investigation including prosecutive action and/or administrative action; (3) Complaints or requests to investigate; (4) General case materials and documentation including, but not limited to, Chronological Case Worksheets (CCW), fact sheets, agent work papers, Record of Disclosure forms, and other case management documentation; (5) Subpoenas and evidence obtained in response to a subpoena; (6) Evidence logs; (7) Pen registers; (8) Correspondence; (9) Records of seized money and/or property; (10) Reports of laboratory examination, photographs, and evidentiary reports; (11) Digital image files of physical evidence; (12) Documents generated for purposes of TIGTA's undercover activities; (13) Documents pertaining to the identity of confidential informants; and (14) Other documents collected and/or generated by the Office of Investigations during the course of official duties.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 3 and 5 U.S.C. 301.

**PURPOSE(S):**

The purpose of this system of records is to maintain information relevant to complaints received by TIGTA and collected as part of investigations conducted by TIGTA's Office of Investigations. This system also includes investigative material compiled by the IRS's Office of the Chief Inspector, which was previously maintained in the following systems of records: Treasury/IRS 60.001–60.007 and 60.009–60.010.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of

a potential violation of civil or criminal law or regulation;

(2) Disclose information to a Federal, State, local, or other public authority maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which TIGTA is authorized to appear when (a) the agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(4) Disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order where arguably relevant to a proceeding;

(5) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice;

(6) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2;

(9) Disclose information to the Equal Employment Opportunity Commission, Merit Systems Protection Board, arbitrators, and other parties responsible for processing personnel actions or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(10) In situations involving an imminent danger of death or physical injury, disclose relevant information to an individual or individuals who are in danger; and

(11) Provide information to other Offices of Inspectors General, the President's Council on Integrity and Efficiency, and the Department of Justice, in connection with their review of TIGTA's exercise of statutory law enforcement authority, pursuant to section 6(e) of the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3; and,

(12) Disclose information to complainants, victims, or their representatives (defined for purposes here to be a complainant's or victim's legal counsel or a Senator or Representative whose assistance the complainant or victim has solicited) concerning the status and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim, including, once the investigative subject has exhausted all reasonable appeals, any action taken. Information concerning the status of the investigation or case is limited strictly to whether the investigation or case is open or closed. Information concerning the results of the investigation or case is limited strictly to whether the allegations made in the complaint were substantiated or were not substantiated and, if the subject has exhausted all reasonable appeals, any action taken.

(13) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic media.

**RETRIEVABILITY:**

By name, Social Security Number, and/or case number.

**SAFEGUARDS:**

The records are accessible to TIGTA personnel, all of whom have been the subject of background investigations, on a need-to-know basis. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed; these terminals are accessible only to authorized persons. Paper records are maintained in locked facilities and/or cabinets with restricted access.

**RETENTION AND DISPOSAL:**

Some of the records in this system are maintained and disposed of in accordance with a record disposition schedule approved by the National Archives and Records Administration. TIGTA is in the process of requesting approval of new records schedules concerning all records in this system of records. Records not currently covered by an approved record retention schedule will not be destroyed until TIGTA receives the National Archives and Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Inspector General for Investigations, Office of Investigations, TIGTA, 1401 H Street NW., Washington, DC 20005.

**NOTIFICATION PROCEDURE:**

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Written inquiries should be addressed to the Office of Chief Counsel, Disclosure Branch, Treasury Inspector General for Tax Administration, 1401 H Street NW., Room 469, Washington, DC 20005. This system of records may contain records that are exempt from the notification, access, and contesting records requirements pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' above.

**RECORD SOURCE CATEGORIES:**

Some records contained within this system of records are exempt from the requirement that the record source categories be disclosed pursuant to the provisions of 5 U.S.C. 552a(j)(2) and

(k)(2). Non-exempt record source categories include the following: Department of the Treasury personnel and records, complainants, witnesses, governmental agencies, tax returns and related documents, subjects of investigations, persons acquainted with the individual under investigation, third party witnesses, Notices of Federal Tax Liens, court documents, property records, newspapers or periodicals, financial institutions and other business records, medical records, and insurance companies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Some records contained within this system of records are exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). (See 31 CFR 1.36)

**APPENDIX A—OFFICE OF INVESTIGATIONS, TIGTA**

Field Division SAC Offices

Treasury IG for Tax Administration, 401 West Peachtree St., Atlanta, GA 30308.

Treasury IG for Tax Administration, 230 S. Dearborn St., IL 60604.

Treasury IG for Tax Administration, 1919 Smith Street, Houston, TX 77002.

Treasury IG for Tax Administration, 1999 Broadway, Denver, CO 80202.

Treasury IG for Tax Administration, 201 Varick Street, New York, NY 10014.

Treasury IG for Tax Administration, Ronald Dellums Federal Bldg., 1301 Clay Street, Oakland, CA 94612.

Treasury IG for Tax Administration, 2970 Market Street, Philadelphia, PA 19104.

Treasury IG for Tax Administration, 12119 Indian Creek Court, Beltsville, MD 20705.

**APPENDIX B—AUDIT FIELD OFFICES, TIGTA**

Treasury IG for Tax Administration, 310 Lowell Street, Andover, MA 01812.

Treasury IG for Tax Administration, 401 W. Peachtree St., Atlanta, GA 30308–3539.

Treasury IG for Tax Administration, Atlanta Service Center, 4800 Buford Highway, Chamblee, GA 30341.

Treasury IG for Tax Administration, 3651 South Interstate 35, Austin, TX 78741.

Treasury IG for Tax Administration, 31 Hopkins Plaza, Fallon Federal Building, Baltimore, MD 21201.

Treasury IG for Tax Administration, 1040 Waverly Ave, Holtsville, NY 11742.

Treasury IG for Tax Administration, 200 W Adams, Chicago, IL 60606.

Treasury IG for Tax Administration, Peck Federal Office Bldg., 550 Main Street, Room 5028, Cincinnati, OH 45201.

Treasury IG for Tax Administration, 4050 Alpha Road, Dallas, TX 75244.

Treasury IG for Tax Administration, 600 17th Street, Denver, CO 80202.

Treasury IG for Tax Administration, Fresno Service Center, 5045 E. Butler Stop 11, Fresno, CA 93727.

Treasury IG for Tax Administration, 7850 SW 6th Court, Plantation, FL 33324.

Treasury IG for Tax Administration, 333 West Pershing Road, Kansas City, MO 64108.

Treasury Inspector General for Tax Administration—Audit, 24000 Avila Road, Laguna Niguel, CA 92677.

Treasury IG for Tax Administration, 312 East First Street, Los Angeles, CA 90012.

Treasury IG for Tax Administration, 5333 Getwell Rd, Memphis, TN 38118.

Treasury IG for Tax Administration, 1160 West 1200 South, Ogden, Utah 84201.

Treasury IG for Tax Administration, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.

Treasury IG for Tax Administration, 915 2nd Avenue, Seattle, WA 98174.

Treasury IG for Tax Administration, 1222 Spruce, St. Louis, MO 63103.

Treasury IG for Tax Administration, 92 Montvale Avenue, Stoneham, MA 02180.

Treasury IG for Tax Administration, Ronald Dellums Federal Bldg., 1301 Clay Street, Oakland, CA 94612.

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Part III

## Department of Commerce

Bureau of Industry and Security

15 CFR Parts 740 and 774

Control of Military Training Equipment, Energetic Materials, Personal Protective Equipment, Shelters, Articles Related to Launch Vehicles, Missiles, Rockets, Military Explosives, and Related Items; Final Rule

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**15 CFR Parts 740 and 774**

**[Docket No.—120201082–3709–02]**

**RIN 0694–AF58**

# Control of Military Training Equipment, Energetic Materials, Personal Protective Equipment, Shelters, Articles Related to Launch Vehicles, Missiles, Rockets, Military Explosives, and Related Items

**AGENCY:** Bureau of Industry and Security, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule implements four previously proposed rules, and adds to the Export Administration Regulations (EAR) controls on energetic materials, personal protective equipment, shelters, military training equipment, articles related to launch vehicles, missiles, rockets, military explosives, and related items that the President has determined no longer warrant control on the United States Munitions List (USML). This rule also adds to the EAR controls on items within the scope of the Munitions List (WAML) of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement) that are not specifically identified on the USML or the Commerce Control List (CCL), but that were subject to USML jurisdiction. Finally, this rule moves certain items that were already subject to the EAR to the new Export Control Classification Numbers (ECCNs) created by this rule. This rule is being published in conjunction with the publication of a Department of State, Directorate of Defense Trade Controls rule revising USML Categories IV, V, IX, X, and XVI to control those articles the President has determined warrant control in those categories of the USML. Both rules are part of the President's Export Control Reform Initiative. The revisions in this final rule are also part of Commerce's retrospective regulatory review plan under Executive Order (EO) 13563.

**DATES:** This rule is effective July 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding energetic materials and related items controlled under ECCNs 1B608, 1C608, or 1D608 and personal protective equipment, shelters and related items controlled under ECCNs 1A613, 1B613, 1D613 or 1E613, contact Michael Rithmire, Office of National Security and Technology Transfer Controls, at (202) 482–6105 or *michael.rithmire@bis.doc.gov*.

For questions regarding military training equipment and related items controlled under ECCNs 0A614, 0B614, 0D614 or 0E614, contact Daniel Squire, Office of National Security and Technology Transfer Controls, at (202) 482–3710 or *daniel.squire@bis.doc.gov.*

For questions regarding items related to launch vehicles, missiles, rockets, and military explosive devices controlled under ECCNs 0A604, 0B604, 0D604 or 0E604 and ECCNs 9A604, 9B604, 9D604 or 9E604, contact Dennis Krepp, Office of National Security and Technology Transfer Controls, at (202) 482–1309 or *dennis.krepp@bis.doc.gov.*

**ADDRESSES:** Commerce's full retrospective regulatory review plan can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules.*

**SUPPLEMENTARY INFORMATION:**

## Background

This final rule is part of the Administration's Export Control Reform (ECR) Initiative. In August 2009, President Obama directed the Administration to conduct a broad-based review of the U.S. export control system to identify additional ways to enhance national security. In April 2010, then-Secretary of Defense Robert M. Gates, describing the initial results of that effort, explained that fundamental reform of the U.S. export control system is necessary to enhance our national security. Implementing ECR includes amending the International Traffic in Arms Regulations (ITAR) and its U.S. Munitions List (USML), so that they control only those items that provide the United States with a critical military or intelligence advantage or otherwise warrant such controls, and amending the Export Administration Regulations (EAR) to control military items that do not warrant USML controls. This series of amendments to the ITAR and the EAR will reform the U.S. export control system to enhance our national security by: (i) Improving the interoperability of U.S. military forces with allied countries; (ii) strengthening the U.S. industrial base by, among other things, reducing incentives for foreign manufacturers to design out and avoid US-origin content and services; and (iii) allowing export control officials to focus government resources on transactions that pose greater national security, foreign policy, or proliferation concerns than those involving our NATO allies and other multi-regime partners.

On April 16, 2013, BIS published a final rule setting forth the framework for adding to the CCL items that the President has determined no longer warrant control on the USML through the creation of ''600 series'' Export Control Classification Numbers (ECCNs) (78 FR 22660, April, 16, 2013) (herein the ''April 16 (initial implementation) rule''). The ''600 series'' structure is described in the preamble to that rule at pages 22661–22663 and 22691–22692 and in regulatory text at page 22727 and is not repeated here. This rule follows that structure in creating new ECCNs to control energetic materials and related items, personal protective equipment, shelters and related items, military training equipment and related items, and articles related to launch vehicles, missiles, rockets, military explosives and related items on the CCL.

The changes described in this rule and the State Department's rule amending Categories IV, V, IX, X and XIV of the USML are based on a review of those categories by the Defense Department, which worked with the Departments of State and Commerce in preparing the amendments. The review was focused on identifying the types of articles that are now controlled by the USML that either (i) are inherently military and otherwise warrant control on the USML, or (ii) if of a type common to civil applications, possess parameters or characteristics that provide a critical military or intelligence advantage to the United States and that are almost exclusively available from the United States. If an article was found to satisfy either or both of those criteria, the article remains on the USML. If an article was found not to satisfy either criterion, but is nonetheless a type of article that is ''specially designed'' for military applications, then, generally, it is identified in one of the new ''600 series'' ECCNs created by this rule. No articles from Category XVI—Nuclear Weapons Related Articles are identified in ''600 series'' ECCNs.

Section 38(f) of the AECA (22 U.S.C. 2778(f)) obligates the President to review periodically the USML ''to determine what items, if any, no longer warrant export controls under'' the AECA. The President must report the results of the review to Congress and wait 30 days before removing any such items from the USML. The report must ''describe the nature of any controls to be imposed on that item under any other provision of law'' (22 U.S.C. 2778(f)(1)). The Department of State made the congressional notification required by Section 38(f) of the AECA for removal of these items from the USML.

All references to the USML in this rule are to the list of defense articles

that are controlled for purposes of export, reexport, retransfer, temporary import, or brokering pursuant to the ITAR, and not to the list of defense articles on the United States Munitions Import List (USMIL) that are controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for purposes of permanent import under its regulations at 27 CFR Part 447. Pursuant to section 38(a)(1) of the AECA, all defense articles controlled for export or import, or that are subject to brokering controls, are part of the ''USML'' under the AECA. All defense articles described in the USMIL or the USML are subject to the brokering controls administered by the U.S. Department of State in part 129 of the ITAR. The transfer of defense articles from the ITAR's USML to the EAR's CCL, for purposes of export controls, does not affect the list of defense articles controlled on the USMIL under the AECA for purposes of permanent import or brokering controls.

On January 18, 2011, President Barack Obama issued Executive Order (EO) 13563, affirming general principles of regulation and directing government agencies to conduct retrospective reviews of existing regulations. The revisions in this final rule are part of Commerce's retrospective regulatory review plan under EO 13563. Commerce's full plan, completed in August 2011, can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules*.

**Proposed Rules**

This rule implements amendments to the EAR proposed in the following four rules:

- ''Revisions to the Export Administration Regulations (EAR): Control of Energetic Materials and Related Items That the President Determines No Longer Warrant Control Under the United States Munitions List (USML)'', (RIN 0694–AF53) (77 FR 25932, May 2, 2012) (herein ''the May 2 (energetic materials) rule'');
- ''Revisions to the Export Administration Regulations (EAR): Control of Personal Protective Equipment, Shelters, and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML),'' (RIN 0694–AF58) (77 FR 33688, June 7, 2012) (herein ''the June 7 (protective equipment) rule'');
- ''Revisions to the Export Administration Regulations (EAR): Control of Military Training Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)'' (RIN 0694–AF54) (77 FR 35310, June 13, 2012) (herein ''the June 13 (training equipment) rule''); and
- ''Revisions to the Export Administration Regulations (EAR): Articles the President Determines No Longer Warrant Control Under the U.S. Munitions List That Are Related To Launch Vehicles, Missiles, Rockets, and Military Explosive Devices'' (78 FR 6750, January 31, 2013) (RIN 0694–AF56) (herein ''the January 31 (launch vehicles) rule'').

BIS' responses to those comments and changes that apply only to a single set of controlled items are addressed in discrete sections below. Discussion of changes made by this rule that apply more broadly (cross references to ECCN 0A919, notes on forgings and castings, the United Nations reason for control, removal of the .y.99 paragraphs separate definitions for ''accessories'' and ''attachments'' and the composition of the entries for software and technology) all follow immediately below.

**Broadly Applicable Changes Made by This Rule**

*Cross References to ECCN 0A919*

In keeping with the pattern established in ''Revisions to the Export Administration Regulations: Military Vehicles; Vessels of War; Submersible Vessels, Oceanographic Equipment; Related Items; and Auxiliary and Miscellaneous Items That the President Determines No Longer Warrant Control Under the United States Munitions List'' (78 FR 40892) (July 8, 2013) (herein ''July 8 (vehicles, vessels and miscellaneous equipment) rule''), this final rule adds to the ''related controls'' paragraph of Product Groups A, B, C, and D of the ''600 series'' ECCNs the following sentence: ''See ECCN 0A919 for foreign-made 'military commodities' that incorporate more than a *de minimis* amount of U.S.-origin ''600 series'' controlled content.'' This is a non-substantive change from what was proposed.

*Forgings and Castings*

The four proposed rules on which this rule is based included a note in ECCNs 0A604.x, 1B608.x, 1A613.x, 0A614.x, 0B614.x and 9A604.x which stated that: ''Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacture where they are clearly identifiable by material composition, geometry, or function as commodities controlled by [ECCN].x are controlled by [ECCN].x.''

This final rule adds the phrase ''mechanical properties'' to notes in ECCNs 0A604.x, 1A613.x 0A604.x and 9A604.x, because there may be circumstances when the mechanical properties, as well as the material composition, geometry or function, of a forging, casting, or unfinished product may have been altered specifically for a part or component controlled by one of those ECCNs. The omission of ''mechanical properties'' from the lists in the proposed rules was an error that is being corrected in this rule. This final rule removes the note from ECCNs 1B608.x and 0B614.x because it is not relevant to product group B ECCNs, which apply to test, inspection, and production equipment.

*United Nations (UN) Reason for Control*

None of the four proposed rules on which this rule is based included the United Nations (UN) reason for control in any of their ECCNs. Consistent with the April 16 (initial implementation) rule, this final rule includes the UN controls described in § 746.1(b) of the EAR in all of the ECCNs that it creates. These controls are consistent with the amendments contained in a final rule that BIS published on July 23, 2012 (77 FR 42973), titled ''Export and Reexport Controls to Rwanda and United Nations Sanctions under the Export Administration Regulations.'' That rule amended § 746.1 of the EAR to describe the licensing policy that applies to countries subject to a United Nations Security Council (UNSC) arms embargo and to limit the use of license exceptions to such countries. Applying that licensing policy and related license exception restrictions to the new ''600 series'' ECCNs that are created by this final rule is appropriate, because of the military nature of the items controlled under these new ECCNs.

*Paragraph .y.99*

The May 2 (energetic materials) rule, the June 7 (protective equipment) rule and the June 13 (training equipment) rule proposed including .y.99 paragraphs to ECCNs 1B608, 1D608, 1E608, 1A613, 1B613, 1D613, 1E613, 0A614, 0B614, 0D614 and 0E614. Those paragraphs would have imposed the antiterrorism (AT Column 1) reason for control on items that would otherwise be controlled in that ECCN but that had been determined to be subject to the EAR in a commodity jurisdiction determination issued by the Department of State and that are not elsewhere identified on the CCL (*i.e.,* were designated as EAR99). Applying the AT Column 1 reason for control would have increased the number of circumstances under which these items would require a license. As stated in the preamble to

the April 16 (initial implementation) rule (*See* 78 FR 22660, 22663, April 16, 2013), BIS agreed with a commenter that the burden of tracking down and analyzing whether items formally determined not to be subject to the ITAR that were also EAR99 items because they were not identified on the CCL outweighs the once-contemplated organizational benefits of creating the .y.99 control. Such items have already gone through an interagency review process that concluded whether the items were subject to the ITAR. Thus, BIS has determined that any such items should retain EAR99 status if not otherwise identified on the CCL and this final rule does not contain any .y.99 paragraphs.

*Accessories and Attachments*

The May 2 (energetic materials) rule, the June 7 (protective equipment) rule, and the June 13 (training equipment) rule enclosed the phrase ''accessories and attachments'' in quotation marks throughout their regulatory texts, in keeping with the July 15 (framework) rule, which proposed a single definition for that phrase. Subsequently, BIS published a proposed rule entitled '' 'Specially Designed' Definition'' (77 FR 36409, June 19, 2012), which proposed, *inter alia,* creating separate, but identical definitions for ''accessories'' and for ''attachments'' to allow for instances when only one of the terms would be used. The April 16 (initial implementation) rule, which became effective on October 15, 2013, adopted that change as a final rule. Accordingly, this final rule identifies ''accessories'' and ''attachments'' as separate terms wherever they appear throughout the regulatory text.

*Consistency of Controls*

This final rule diverges in certain instances from the four proposed rules on which it was based with respect to the composition of the ECCNs. Software and technology ECCNs related to end items, production or other equipment, or materials generally control software and technology for the development and production of those items, and for some combination of the following six elements: operation, installation, maintenance, repair, overhaul, or refurbishing of those items. Separate technical teams determined the scope of control for different groups of ECCNs. As a result, different software and technology entries varied in the number and type of functions controlled.

While this variation was not technically inappropriate and did not receive public comments when proposed in four separate rules, BIS is concerned that retaining this variation would complicate compliance. Standard text across ECCNs is a simpler approach. Therefore, each software ECCN in this final rule will control software for ''development,'' ''production,'' operation, or maintenance of the relevant items. Each new ''600 series'' technology ECCN in this final rule will control technology for ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of those items. To the extent that a particular function does not apply to a particular item because no software or technology to perform the function with respect to that item exists, no burden is imposed. Controlling a larger number of functions in technology ECCNs is not an increase in burden, because all six functions are now controlled for technology on the USML.

Similarly, all ''production'' ''equipment'' ECCNs will control test, inspection, and production equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of the relevant items.

**Military Training Equipment and Related Items**

*Public Comments and BIS Responses*

BIS received comments from one individual and one organization in response to the June 13 (training equipment) rule.

*Comment:* One commenter stated that the proposed rule (in combination with the Department of State's June 13, 2012 (military training equipment) rule) fails to cover some of the military training commodities and related test, inspection and production equipment, software and technology on the Wassenaar Arrangement Munitions List. This commenter pointed out WAML category ML14, which applies to military training equipment, uses terms such as ''specialized'' and ''modified for'' in describing such equipment, whereas the June 13 (training equipment) rule used the term ''specially designed.'' The commenter suggested that the meanings of ''specialized'' and ''modified for'' could be broader than the meaning of ''specially designed.'' This commenter also suggested that the U.S. Government should seek a change in the WAML to match the proposed changes to the EAR and not publish a final rule until such a change is adopted.

*Response:* BIS believes that the definition of ''specially designed,'' which became effective on October 15, 2013, in § 772.1 of the EAR, will not cause any of the gaps in coverage that this commenter suggests. The definition initially encompasses items ''for use'' in an article on the USML or an item on the CCL and then goes on to release items that meet one or more of six specific criteria. BIS believes that the term ''for use in an article on the USML or an item on the CCL'' covers anything that would be covered by the terms ''specialized'' or ''modified for'' and that one of the six criteria releasing items from the definition would release anything that would not be covered by the terms ''specialized'' or ''modified for.'' Accordingly, BIS is making no changes to the rule and does not agree that a change to the WAML is needed before this rule is published.

*Comment:* One commenter indicated that proposed ECCN 0D614, which applies to certain software directly related to military training equipment, is narrower than WAML category ML21, which applies to *inter alia* certain ''Software . . . for . . . equipment, materials or software, specified by the Munitions List,'' leaving such software for software not subject to export license requirements despite its presence on the WAML.

*Response:* BIS does not agree with this commenter's interpretation of WAML category ML21. BIS believes that the phrase ''specified by the Munitions List'' in category ML21 refers to categories on the WAML that cover equipment, materials or software, not to WAML category ML21 itself, which applies to software generally. WAML category ML14 applies to military training equipment, which, in this rule, is covered by ECCN 0A614. ECCN 0D614 applies to software for that equipment, thereby implementing the scope of WAML category ML21 as it applies to software for military training equipment.

*Comment:* One commenter stated that the military training equipment in proposed ECCN 0A614 would overlap proposed ECCN 0A617.d test models for development of USML or 600 series items.

*Response:* BIS does not agree that the overlap suggested by the commenter exists. ECCN 0A617.d (as published at 78 FR 40892, 40913, July 8, 2013) will, when effective, apply to test models used in the ''development'' of defense articles controlled by USML Categories IV, VI, VII and VIII. The term ''development'' is defined in the EAR to relate to activities that occur prior to serial production of an item (15 CFR 772.1). ECCN 0A614 will apply to training equipment, which may include some models used for training, but any test models used at the development stage would be covered by ECCN

0A617.d. BIS does not believe that any change in the wording of either ECCN is necessary to make this point.

*Comment:* One commenter stated that proposed 0A614.a equipment for military training not in Category IX includes military trainer aircraft in proposed ECCN 9A610.a in the November 7 (aircraft) rule and in existing ECCN 9A991.a.2.

*Response:* Proposed ECCN 0A614.a applies to training simulators. ECCN 9A610.a, which has become effective since the commenter made this comment, and ECCN 9A991.a.2 apply to operational aircraft. Therefore, the duplication that the commenter suggests does not actually exist.

*Comment:* One commenter objected to the .y.99 paragraphs in the ECCNs generally. The commenter pointed out that the .y.99 paragraphs imposed AT controls on items that previously had been classified by the U.S. government as EAR99. The other commenter stated that the header to ECCN 0A614.y is limited to parts, components, accessories and attachments, whereas paragraph .y.99 of that ECCN is not so limited.

*Response:* BIS agrees that items previously determined to be EAR99 should not be added to the 600 series as a result of this rule. Therefore, this final rule contains no .y.99 paragraphs.

*Comment:* One commenter stated that commodities in proposed ECCN 0B614 are included in existing ECCN 2B018 and related software and technology for those ECCN 0B614 commodities in ECCNs 0D614 and 0E614 are included in existing ECCNs 2D018 and 2E018, respectively.

*Response:* ECCN 2B018 covers certain enumerated equipment used in armaments manufacture. ECCN 0B614 covers test, inspection and production equipment specially designed for military training equipment. Although some of that training equipment is used to train personnel in the use of armaments, BIS believes that there is little, if any, overlap between ECCNs 0B614 and 2B018. In the event that such overlap exists, the order of review set forth in Supplement No. 4 to part 774 of the EAR, which became effective on October 15, 2013 would give a 600 series ECCN precedence over a non-600 series ECCN, thereby unambiguously resolving any overlap in favor of ECCN 0B614. In the same way, any overlap between ECCNs 0D614 and 2D018 or between ECCNs 0E614 and 2E018 that may exist would be unambiguously resolved in favor of ECCN 0D614 and 0E614. Accordingly, BIS is making no changes to this final rule in response to this comment.

*Comment:* One commenter stated that the coverage of ''parts'' and ''attachments'' in ECCN 0A614.x and .y in effect extended the ECCN to things not covered on the WAML because the words ''parts'' and ''attachments'' do not appear on the WAML.

*Response:* The only items listed in ECCN 0A614.y in the June 13 (training equipment) rule were in paragraph .y.99. As noted above, that paragraph has been removed from this final rule and because nothing else was in the .y paragraph, the entire paragraph has been removed from this final rule. Therefore, with respect to ECCN 0A614.y, the commenter's point has become moot.

ECCN 0A614.x applies to certain ''specially designed'' ''parts,'' ''components,'' ''accessories'' and ''attachments'' for military training equipment. The WAML category ML14 uses the phrase ''specially designed components and attachments'' for military training equipment. The words ''parts'' and ''accessories'' are not used in describing things anywhere on WAML or on the Wassenaar Arrangement Dual-Use List. Nevertheless, longstanding practice has been to interpret the word ''components'' in the WAML as including the types of things that are in the definitions of ''accessories,'' ''components,'' and ''parts'' that became effective on October 15, 2013. Therefore, BIS concludes that removing the terms ''parts'' and ''attachments'' from ECCN 0A614.x would exclude things that are covered by WAML category ML14.

*Comment:* One commenter stated that ECCNs 0A614.x and 0B614.y.99 cover parts and components for certain items on the USML that are not on the WAML. Additionally, that commenter stated that ECCNs 0D614 and 0E614, because they cover software and technology for, *inter alia,* ECCNs 0A614.x and 0B614.y.99, cover software and technology that is not on the WAML.

*Response:* ECCN 0B614.y has been removed from this final rule for the same reason that 0A614.y was removed as noted above, making the commenter's remarks regarding paragraph .y moot.

With respect to 0A614.x, 0D614 and 0E614, BIS acknowledges that the USML applies to things that are not on the WAML. BIS is not aware of any statement by the Department of State, which administers the USML, or by any other unit of the U.S. Government that the USML is or should be or is intended to be limited to items that are on the WAML. The purpose of the ECCNs created by this rule (and all other 600-series ECCNs created as part of the President's Export Control Reform Initiative) is to control on the CCL items that the President determines no longer warrant control under the USML without regard to whether those items are also on the WAML. Accordingly, BIS is making no changes to the rule in response to this comment.

*Revision to ECCN 9A610 to Avoid Duplicative Coverage Military Instrument Flight Trainers*

ECCN 9A610.t reads: ''Military aircraft instrument flight trainers that are not 'specially designed' to simulate combat.'' (See USML Cat IX for controls on such trainers that are ''specially designed'' to simulate combat.) The June 13 (training equipment) rule proposed a note for ECCN 0A614.a that reads: ''Note: This entry includes operational flight trainers, radar target trainers, flight simulators for aircraft classified under ECCN 9A610.a, human-rated centrifuges, radar trainers for radars classified under ECCN 3A611, instrument flight trainers for military aircraft, navigation trainers for military items, target equipment, armament trainers, military pilotless aircraft trainers, mobile training units and training 'equipment' for ground military operations.'' This rule removes the phrase ''radar trainers for radars classified under 3A611'' from that note. ECCN 3A611 is a proposed new ECCN that has not yet been incorporated into the EAR (*see* 77 FR 70945, 70952. November 28, 2012 and 78 FR 45026, 45045, July 25, 2013). This change is needed to avoid referencing a non-existent ECCN in a final rule. BIS expects that, as part of the ECR Initiative, a new ECCN 3A611 will be created, that it will control, *inter alia,* some radars and that ECCN 0A614 will control radar trainers for those radars. BIS expects to restore the phrase to this note when ECCN 3A611 is created.

To remove duplicative coverage of military instrument flight trainers, this rule removes and reserves ECCN 9A610.t. BIS believes that this structure will make the EAR more consistent by classifying all military training equipment that is not on the USML under ECCN 0A614. Trainer aircraft would continue to be either in ECCN 9A610.a or in USML Category VIII or in ECCN 9A991.

*Revision to 0A614 to be Consistent With ''600 Series'' Order of Review*

In addition to the changes made in response to the public comments described above, this rule removes from ECCN 0A614.x text that appeared in the proposed rule, which would have excluded from that ECCN items that appear elsewhere on the CCL. This

change is made to be consistent with the CCL order of review in Supplement No. 4 to part 774 of the EAR, which became effective on October 15, 2013. That order of review gives for 600 series ECCNs precedence over other ECCNs.

**Energetic Materials and Related Items**

BIS received comments from six parties in response to the May 2 (energetic materials) rule.

*ECCN 1C111.a.1 (Aluminum Powder)*

*Comment:* Two commenters noted that the Related Definitions paragraph in ECCN 1C111 indicated particle size must be determined ''through the use of best industrial practices,'' while proposed ECCN 1C111.a.1.a limited the methods for determining particle size to the following methods: (1) ISO 2591:1988 (sieving techniques); or (2) national equivalents, such as JIS Z8820 (sedimentation). As an alternative, the respondents recommended that the ''Light Scattering'' method be used to determine particle size distribution in metal powders, as described by ASTM standard B 822–02, which is widely used in the metal powder industry and in the manufacture of propellants.

*Response:* This final rule retains the method of determining particle size ''according to ISO 2591:1988 or national equivalents,'' but eliminates the specific reference in ECCN 1C111.a.1 to JIS Z8820. BIS made this change to clarify that ECCN 1C111.a.1 does not limit exporters to using only the JIS Z8820 standard if they choose to determine particle size by using ''national equivalents'' to ISO 2591:1988.

*Comment:* Three commenters noted that ECCN 1C111.a.1, as proposed to be amended by the May 2 (energetic materials) rule, appeared to be a combination of the then current CCL controls on aluminum powder (as proposed in ECCN 1C111.a.1.a) and the then current USML Category V controls (as proposed in ECCN 1C111a.1.b), neither of which clearly described the aluminum powders subject to control. Two of the commenters also indicated that the controls in ECCN 1C111.a.1 should include more specific parameters for particle size.

*Response:* This final rule amends ECCN 1C111.a.1 consistent with the controls in Category II, Item 4.C.2.c of the Missile Technology Control Regime (MTCR) Annex, which controls: ''Spherical or spheroidal aluminum powder (CAS 7429–90–5) in particle size of less than 200 x $10^{-6}$ m (200 μm) and an aluminum content of 97% by weight or more, if at least 10% of the total weight is made up of particles of less than 63 μm, according to ISO 2591:1988 or national equivalents.'' These revised controls provide a specific upper limit on particle size (*i.e.,* all particles that have a particle size of less than 200 x $10^{-6}$ m (200 μm) and that meet all of the other technical characteristics indicated in ECCN 1C111.a.1, including 10% of the total weight consisting of particles of less than 63 μm, are subject to control under this ECCN).

*Comment:* Two commenters expressed their concern that, within the context of ECCN 1C111.a.1.b as proposed by the May 2 (energetic materials) rule, the meaning of the term ''spheroidal'' was not clear and, furthermore, neither was the method by which the percentage of ''spheroidal'' particles would be measured (in determining whether more than 50% of the particles are ''spheroidal'').

*Response:* As noted above, this final rule addresses the commenters' concerns by amending ECCN 1C111.a.1 to be consistent with the controls in Category II, Item 4.C.2.c of the MTCR Annex and by removing the controls in proposed ECCN 1C111.a.1.b. ECCN 1C111.a.1, as amended by this final rule, uses the term ''spheroidal,'' in conjunction with the term ''spherical,'' to describe the types of aluminum powder that are subject to control under this ECCN.

*Comment:* Two commenters recommended that spherical or spheroidal aluminum powder be made subject to less stringent controls than those described in the proposed amendments to ECCN 1C111.a.1 in the May 2 (energetic materials) rule. That rule proposed controlling spherical or spheroidal aluminum powder for both missile technology (MT) and AT reasons to destinations indicated under MT Column 1 and AT Column 1, respectively, on the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR). In support of their recommendation, the commenters noted the use of aluminum powders in a wide range of predominately commercial and civil applications, including the production of conductive inks for photovoltaic applications, automotive pigments, thermal spray applications, refractory materials, and heat management devices and, in addition, cited the widespread availability of technology for the production of spherical or spheroidal aluminum powder.

*Response:* This final rule does not adopt the commenters' recommendation. The spherical or spheroidal aluminum powder described in ECCN 1C111.a.1, as amended by this final rule, is identified under Category II, Item 4.C.2.c of the MTCR Annex. Therefore, consistent with U.S. obligations as a participating country in the MTCR, this final rule controls spherical or spheroidal aluminum powder for MT reasons (as well as AT reasons) and requires a license to all destinations indicated under MT Column 1 on the Commerce Country Chart (*i.e.,* all countries, except for Canada).

*ECCN 1C111.a.3.f (Chlorine Trifluoride)*

*Comment:* One commenter recommended that BIS restrict the application of MT controls on chlorine trifluoride, as proposed to be controlled under ECCN 1C111.a.3.f in the May 2 (energetic materials) rule, by creating an exemption from MT controls for chlorine trifluoride that is purified and packaged in commercial quantities for civil applications. Specifically, the respondent recommended that BIS add a Note to ECCN 1C111.a.3.f to read as follows: ''Chlorine trifluoride is not controlled for MT reasons when purified and packaged in commercial quantities for civil applications.''

*Response:* This final rule does not adopt the commenter's recommendation. Chlorine trifluoride, which is described in ECCN 1C111.a.3.f as amended by this final rule, is identified under Category II, Item 4.C.4.a.6 of the MTCR Annex and, prior to the effective date of this final rule, continues to be controlled for MT/AT/UN reasons under ECCN 1C018.m and for NP/AT reasons under ECCN 1C238. Consistent with U.S. obligations as a participating country in the text of the MTCR Annex and the Nuclear Suppliers Group Dual-Use Annex (Item 2.C.6), this final rule amends ECCN 1C111 to control chlorine trifluoride under ECCN 1C111.a.3.f for MT/NP/AT reasons.

*ECCN 1C111.b.2 (Hydroxy-Terminated Polybutadiene (Including Hydroxyl—Terminated Polybutadiene) (HTPB))*

*Comment:* One commenter recommended that BIS authorize exports and reexports of Hydroxyl-terminated polybutadiene (''HTPB''), under the Special Comprehensive License (SCL) procedure, by amending § 752.3(a)(1) of the EAR to remove the restriction on the eligibility of MT-controlled items. The commenter also recommended that ''sample shipments'' of HTPB be excluded from control under ECCN 1C111. In support of these recommendations, the commenter noted the following: (1) HTPB resin products are a staple of the manufacturing process for a broad range of commercial sectors (*e.g.,* automotive, electronic); (2) HTPB is widely available and is

manufactured in every continent; and (3) many MTCR-participating countries are leading exporters of HTPB and the lack of parity in the way various countries interpret their MTCR obligations provides an unfair advantage to non-U.S. manufacturers of HTPB products.

*Response:* This final rule does not adopt the commenter's recommendations. HTPB, which is described in ECCN 1C111.b.2 as amended by this final rule, is identified under Category II, Item 4.C.5.b of the MTCR Annex. The controls on HTPB, as described in ECCN 1C111.b.2, are consistent with U.S. obligations as a participating country in the MTCR. Specifically, HTPB requires a license for MT reasons under MT Column 1, which includes all destinations except for Canada. Furthermore, neither this final rule nor the State Department's companion rule change the controls that apply to HTPB. ECCN 1C111.b.2, as amended by this final rule, continues to control Hydroxy-terminated polybutadiene (including hydroxyl-terminated polybutadiene) (HTPB), except for HTPB (hydroxyl-terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30 °C of less than 47 poise (CAS 69102–90–5), which remains subject to the ITAR (see 22 CFR 121.1, Category V). The export controls on HTPB that are administered by DDTC are consistent with those described in WAML 8.e.12. This final rule amends the control text in ECCN 1C111.b.2 to clarify the scope of the EAR controls on HTPB by including a reference to the related USML Category V controls described above.

*Controls on Certified Reference Standards, Certified Reference Materials and Standard Reference Materials (CRS)*

*Comment:* One commenter recommended the removal from USML Category V and the addition to the CCL of Certified Reference Standards, Certified Reference Materials and Standard Reference Materials (referred to collectively as CRS) that contain trace amounts of certain chemicals controlled under USML Category V. Specifically, the commenter proposed that a new ECCN 1C994 be added to the CCL to control CRS that contain less than 0.5 grams total quantity of one or more USML Category V chemicals, provided that: (1) The total amount of the controlled chemicals comprises less than or equal to one percent of the total quantity of the CRS; and (2) the mixture or compound lacks explosive characteristics. As an alternative, the commenter recommended controlling such mixtures or compounds under new ECCN 1C608.o on the CCL. In conjunction with this recommended change to the CCL, the commenter also recommended that a new interpretation be added to USML Category V to exclude such mixtures or compounds from control under Category V.

*Response:* This final rule does not adopt the commenter's recommendation. The commenter submitted substantially the same recommendation in a comment to the State Department's proposed rule to revise USML Category V (77 FR 25944, May 2, 2012) that was published simultaneously with the May 2 (energetic materials) rule. The Department of State final rule that is being published simultaneously with this rule did not adopt that recommendation because: ''For two of these items—RDX and its derivatives and HMX and its derivatives—the MTCR Annex does not provide for a minimum level for establishing control as a munitions item. For the other two—Tetryl and 1,3,5-trichlorobenezene—the Department [of State] determined that there is no minimum level for identifying military utility or lack thereof. Therefore, the Department did not accept this recommendation.'' BIS concurs with this decision of the Department of State and because the chemicals are not being removed from the USML, they cannot be added to the CCL.

*Correspondence Between the BIS and State Category V Proposed Rules and WAML 8 (Energetic Materials and Related Substances)*

*Comment:* One commenter stated that certain amendments contained in the BIS May 2 (energetic materials) rule, and the companion State rule, did not fully correspond with the scope of WAML category 8 ''Energetic materials and related substances.'' Specifically, the commenter indicated that the two proposed rules did not cover the following WAML items: 8.a.34 (to the extent not covered by proposed ECCN 1C608.n); 8.b.1; 8.b.2 (to the extent not covered by proposed USML Category V.b.1); 8.b.6 (to the extent not covered by proposed ECCN 1C608.h or .k); 8.e.6 (to the extent not covered by proposed ECCN 1C608.n); and 8.f.4.e (to the extent not covered by proposed USML Cat V.f.4.v to .f.4.xv).

*Response:* The specific WAML category 8 items cited by the commenter as not being addressed by the BIS May 2 (energetic materials) rule and the companion State rule, are, in fact, addressed by the catch-all text in new ''600 series'' ECCN 1C608.n. In this final rule, ECCN 1C608.n reads as follows: ''Any explosives, propellants, oxidizers, pyrotechnics, fuels, binders, or additives that are 'specially designed' for military application and not enumerated in USML Category V or elsewhere on the USML.'' This final rule amends ECCN 1C608.n, as proposed by the May 2 (energetic materials) rule, by revising the phrase ''. . . not listed elsewhere in USML Category V or the CCL'' to read ''. . . not enumerated in USML Category V or elsewhere on the USML.'' This change is consistent with Supplement No. 4 to part 774 of the EAR, which, gives ''600 series'' ECCNs precedence over non-''600 series'' ECCNs when classifying an item. This supplement became effective on October 15, 2013. Consequently, items that meet the general description in ECCN 1C608.n and that are not enumerated in USML Category V, or enumerated elsewhere on the USML, are controlled under ECCN 1C608.n.

*Comment:* One commenter indicated that the BIS May 2 (energetic materials) rule and the companion State rule contain duplicative coverage of the following items: Inhibited red fuming nitric acid (IRFNA) (proposed USML Category V.d.10 and proposed ECCN 1C111.a.3.e); HTPB (proposed USML Category V.e.7 is a subset of proposed ECCN 1C111.b.2); chlorine trifluoride (proposed ECCN 1C111.a.3.f and current ECCN 1C238); and spherical aluminum powder (proposed ECCN 1C111.a.1.b is a subset of proposed ECCN 1C111.a.1.a).

*Response:* (1) *IRFNA:* Although the controls on ''inhibited red fuming nitric acid'' (IRFNA) in the BIS May 2 (energetic materials) rule and the companion State rule are similar, they were derived from different sources. The BIS rule proposed to amend ECCN 1C111 to control IRFNA under ECCN 1C111.a.3.e., using control text consistent with the IRFNA controls described in the MTCR Annex, Category II, Item 4.C.4.a.5. In State's companion rule, the IRFNA controls conformed with the controls described in WAML 8.d.10, which states, ''Liquid oxidizers comprised of or containing inhibited red fuming nitric acid (IRFNA) (CAS 8007–58–7).'' To avoid confusion based on the similarity between these two sets of controls, this final rule does not add IRFNA to ECCN 1C111. Instead, State's companion final rule will control IRFNA consistent with both the MTCR and WAML controls, and this rule adds a note to the ''Related Controls'' paragraph of ECCN 1C111 referring readers to USML Category V(d)(10) for controls on IRFNA.

(2) *HTPB:* As noted earlier, neither this final rule nor State's companion final rule changes the controls that apply to HTPB. The export controls on HTPB that are administered by DDTC are consistent with those described in WAML 8.e.12. The controls administered by BIS under ECCN 1C111.b.2, are consistent with those described in MTCR Annex, Category II, Item 4.C.5.b. To avoid any suggestion of a partial overlap in the HTPB controls maintained by BIS and State, this final rule amends ECCN 1C111.b.2 to clarify the scope of the EAR controls on HTPB by including a reference to the related USML Category V controls, which apply to HTPB (hydroxyl-terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30 °C of less than 47 poise (CAS 69102–90–5).

(3) *Chlorine trifluoride:* As discussed previously, BIS's May 2 (energetic materials) rule did not propose to control chlorine trifluoride under both ECCN 1C111.a.3.f and ECCN 1C238. That rule proposed to remove ECCN 1C238 from the CCL, per amendatory instruction #8 (see 77 FR 25942). However, prior to the effective date of this final rule, chlorine trifluoride continues to be controlled for MT/AT/UN reasons under ECCN 1C018.m and for NP/AT reasons under ECCN 1C238.

(4) *Spherical aluminum powder:* BIS's May 2 (energetic materials) rule proposed to amend ECCN 1C111.a.1 to control, under ECCN 1C111.a.1.a, spherical aluminum powder not controlled by proposed 1C111.a.1.b in particle size of less than 200 x $10^{-6}$ m (200 μm) and an aluminum content of 97% by weight or more, if at least 10 percent of the total weight is made up of particles of less than 63 μm, according to ISO 2591:1988 or national equivalents. ECCN 1C111.a.1.b, as proposed, would have controlled aluminum powder having all of the following characteristics: (i) Greater than 99% purity; (ii) greater than 50% of the particles being spheroidal, or produced by a gas atomization process using an inert gas such as nitrogen; and (iii) a particle size less than 60 microns. BIS agrees with the commenter's assessment that the controls described in proposed ECCN 1C111.a.1.a and .a.1.b, respectively, overlapped to some degree. Consequently, as noted above, this final rule revises new ECCN 1C111.a.1 to be consistent with the controls in Category II, Item 4.C.2.c of the MTCR Annex.

*Comment:* One commenter indicated that BIS's May 2 (energetic materials) rule listed the following items in proposed new ECCN 1C608.a through .g and 1C608.j that are not identified in WAML 8: propellants having nitrocellulose with nitrogen content greater than 12.6%; shock tubes, cartridge power devices, detonators, igniters, oil well cartridges, boosters, and commercial pyrotechnic devices.

*Response:* The items in proposed new ECCN 1C608 that the commenter has identified as not listed in WAML 8 are defense articles that, prior to the effective date of this final rule, will continue to be controlled under certain catch-all provisions in USML Category V. Most of the defense articles that the President has determined no longer warrant control on the USML, are controlled under ''600 series'' ECCNs on the CCL. In some instances, BIS follows this approach even when an item is not specifically identified on the WAML. In deciding whether a particular item should be controlled under a ''600 series'' ECCN, BIS considers whether the inherent or unique military or intelligence applicability of the item warrants, at a minimum, the level of control that is typically applicable under ''600 series'' ECCNs (*i.e.,* NS, RS, and UN, except for those items identified under the .y paragraphs of these ECCNs, which are subject to AT controls only).

**Changes to Controls on Energetic Materials Made by This Rule**

This final rule creates four new ''600 series'' ECCNs in CCL Category 1 (ECCNs 1B608, 1C608, 1D608, and 1E608) and amends ECCN 1C111 to control some of the aluminum powder and hydrazine, and derivatives thereof, controlled under Category V of the USML prior to the effective date of this rule. In addition, this rule controls ''equipment'' for the ''production'' of explosives and solid propellants, previously classified under ECCN 1B018.a, and related ''software,'' previously classified under ECCN 1D018, under new ECCNs 1B608 and 1D608, respectively. Similarly, this rule removes commercial charges and devices containing energetic materials from control under ECCN 1C018 and controls them under new ECCN 1C608, instead (except for chlorine trifluoride, which is controlled under ECCN 1C111.a.3.f). In a corresponding change, ECCN 1C238, which controlled chlorine trifluoride together with ECCN 1C018.m, is removed from the CCL. This rule also makes conforming changes to ECCNs 1C239, 1E001, 1E101, and 1E201. These amendments are discussed in more detail below.

*New ECCN 1B608 (Test, Inspection, and Production ''Equipment'' and Related Commodities ''Specially Designed'' for the ''Development'' or ''Production'' of Commodities Enumerated in ECCN 1C608 or USML Category V) and ECCN 1B018 Amended*

Paragraph .a of ECCN 1B608 controls test, inspection, and production ''equipment'' ''specially designed'' for the ''production'' of energetic materials and related commodities controlled by new ECCN 1C608 or USML Category V and not elsewhere specified on the USML. This ''equipment'' includes items controlled under ECCN 1B018.a.2 or .a.3 prior to the effective date of this rule. Paragraph .b of ECCN 1B608 controls complete installations not enumerated on the USML, including complete installations controlled under ECCN 1B018.a.1 prior to the effective date of this rule, that are ''specially designed'' for the ''production'' of energetic materials and related commodities controlled by new ECCN 1C608 or USML Category V. Paragraph .c of ECCN 1B608 controls environmental test facilities that are ''specially designed'' for the certification, qualification, or testing of items controlled by new ECCN 1C608 or USML Category V. Paragraphs .d through .w are reserved. Paragraph .x controls ''parts,'' ''components,'' ''accessories'' and ''attachments'' (including certain unfinished products that have reached a stage in manufacturing where they are clearly identifiable as commodities controlled by paragraph .x) that are ''specially designed'' for a commodity controlled under paragraph .a, .b, or .c of ECCN 1B608 or a defense article in USML Category V and are not elsewhere specified on the USML. These ''parts,'' ''components,'' ''accessories'' and ''attachments'' include ''specially designed'' ''parts'' and ''components'' controlled under ECCN 1B018.a.4 prior to the effective date of this rule. Incorporating ECCN 1B018.a items into new ECCN 1B608 is consistent with the regulatory construct described in the April 16 (initial implementation) rule, under which WAML items in certain 018 ECCNs are consolidated with former USML items into ''600 series'' ECCNs. ECCN 1B018, as amended by this final rule, cross references ECCN 1B608, and ECCN 1B018.a is removed and reserved.

*New ECCN 1C608 (Energetic Materials and Related Commodities) and ECCN 1C018 Amended*

ECCN 1C608.a controls single base, double base, and triple base propellants having nitrocellulose with a nitrogen

content greater than 12.6 percent in the form of either: (i) Sheetstock or carpet rolls or (ii) grains with a diameter greater than 0.10 inches. Paragraphs .b through .m of ECCN 1C608 control commercial charges and devices (containing energetic materials) controlled under ECCN 1C018.b through .m prior to the effective date of this rule. This rule also reserves ECCN 1C608.i consistent with the format of the List of Items Controlled in ECCN 1C018, where ECCN 1C018.i is reserved. However, a Note following 1C608.m indicates that chlorine trifluoride, controlled under ECCNs 1C018.m and 1C238 prior to the effective date of this final rule, will be controlled under ECCN 1C111.a.3.f only, and not under new ECCN 1C608. Incorporating ECCN 1C018 items into new ECCN 1C608 is consistent with the regulatory construct described in the April 16 (initial implementation) rule, under which WAML items in certain 018 ECCNs are consolidated with former USML items into ''600 series'' ECCNs. ECCN 1C018, as amended, cross-references ECCN 1C608 and other ECCNs that control commercial charges and devices containing energetic materials. ECCN 1C608.n controls any explosives, propellants, oxidizers, pyrotechnics, fuels, binders, or additives that are ''specially designed'' for military application and not listed in USML Category V or elsewhere on the USML.

*New ECCN 1D608 (''Software'' ''Specially Designed'' for the ''Development,'' ''Production,'' Operation, or Maintenance of Commodities Controlled by 1B608 or 1C608) and ECCN 1D018 Amended*

ECCN 1D608.a controls ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by new ECCN 1B608 or 1C608. This ''software'' includes ''software'' controlled by ECCN 1D018, prior to the effective date of this final rule, for ''equipment'' in ECCN 1B018.a that is being moved to new ECCN 1B608 by this final rule. Incorporating ECCN 1D018 ''software'' for ECCN 1B018.a items into new ECCN 1D608 is consistent with the regulatory construct described in the April 16 (initial implementation) rule, under which WAML items in 018 ECCNs are consolidated with former USML items into ''600 series'' ECCNs. ECCN 1D018, as amended by this final rule, cross-references ECCN 1D608. Paragraph .b of ECCN 1D608 is reserved.

*New ECCN 1E608 (''Technology'' ''Required'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul, or Refurbishing of Equipment Controlled in 1B608 or Materials Controlled by 1C608)*

ECCN 1E608.a controls ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of items controlled by ECCN 1B608 or 1C608. This ''technology'' includes ''technology'' controlled by ECCN 1E001, prior to the effective date of this final rule, for ''equipment'' in ECCN 1B018.a that is being moved to new ECCN 1B608 by this final rule. Accordingly, ECCN 1E001 is amended to exclude both ''technology'' for 1B018.a items that are being moved to new ECCN 1B608 and ''technology'' for new ECCN 1C608 items and to cross reference ECCN 1E608 (the amendments to ECCN 1E001 are described in more detail, below). Paragraph .b of 1E608 controls ''technology'' for the ''development'' or ''production'' of nitrocellulose with a nitrogen content over 12.6 percent and at rates greater than 2000 pounds per hour. Paragraph .c of 1E608 controls ''technology'' for the ''development'' or ''production'' of nitrate esters (*e.g.,* nitroglycerine) at rates greater than 2000 pounds per hour.

*ECCN 1C111 Amended and ECCN 1C238 Removed*

This final rule amends ECCN 1C111 by adding under 1C111.a and 1C111.d, respectively, aluminum powder and hydrazine and derivatives thereof, which the President has determined no longer warrant control under USML Category V. These items are added to ECCN 1C111 because they possess characteristics that are more similar to the propellants, and constituent chemicals therefor, that are controlled under ECCN 1C111 than the energetic materials that are controlled under new ECCN 1C608. Like the items controlled under ECCN 1C111 prior to the effective date of this final rule, these additional items are subject to missile technology (MT Column 1) controls and anti-terrorism (AT Column 1) controls, except for symmetrical dimethyl hydrazine in ECCN 1C111.d.3, which is controlled for regional stability (RS Column 1) and anti-terrorism (AT Column 1) reasons. In addition, this final rule amends the Related Controls paragraph in ECCN 1C111 to indicate that ECCN 1C608 controls oxidizers that are composed of fluorine (and also other halogens, oxygen, or nitrogen), except for chlorine trifluoride, which is controlled under ECCN 1C111.a.3.f.

As noted in the response to comments, prior to the effective date of this final rule, chlorine trifluoride will continue to be controlled under both ECCNs 1C018.m and 1C238; ECCN 1C018.m controls chlorine trifluoride for MT, UN and AT reasons while ECCN 1C238 controls chlorine trifluoride for NP reasons. Upon the effective date of this final rule, chlorine trifluoride will be removed from ECCNs 1C018.m and 1C238 and controlled under ECCN 1C111.a.3.f only. This final rule does not also control chlorine trifluoride under ECCN 1C608.m, because chlorine trifluoride is not on the WAML and, consequently, is not subject to NS controls. Accordingly, this final rule amends ECCN 1C111 to control chlorine trifluoride under ECCN 1C111.a.3.f for MT, NP and AT reasons. RS controls will not apply to chlorine trifluoride under ECCN 1C111 (as would normally be the case with items controlled under a ''600 series'' ECCN), because such controls cover the same destinations as MT Column 1 restrictions. Because chlorine trifluoride is the only item controlled under ECCN 1C238, this ECCN is being removed from the CCL.

*ECCN 1C239 Amended*

This final rule amends ECCN 1C239 by revising the Related Controls paragraph in the List of Items Controlled section to remove the reference to ECCN 1C018 and replace it with a reference to new ECCN 1C608. The reason for this change is that the commercial charges and devices (containing energetic materials) controlled under ECCN 1C018.b through .m will be controlled under new ECCN 1C608.b through .m upon the effective date of this final rule. In addition, this final rule corrects the erroneous ITAR citation in the Related Controls paragraph to read 22 CFR 121.1.

*ECCN 1E001 Amended*

This final rule amends ECCN 1E001 by revising the ECCN heading to exclude ''technology'' for items that, upon the effective date of this final rule, will be controlled under new ECCN 1B608 or 1C608 and by amending the Related Controls paragraph in the List of Items Controlled to include a reference to new ECCN 1E608. The heading of ECCN 1E001 also is amended to exclude ''technology'' for items in new ECCN 1B613 from control under this ECCN, because such ''technology'' is controlled under new ECCN 1E613 (this conforming change reflects the addition of new ECCNs 1A613, 1B613, 1D613 and 1E613, which are also being added

to the CCL by this final rule and are described elsewhere in the preamble). In addition, this rule amends the nuclear nonproliferation (NP) controls paragraph in the License Requirements section of ECCN 1E001 to include ''technology'' for ECCN 1C111 items controlled for NP reasons (*i.e.,* chlorine trifluoride in ECCN 1C111.a.3.f). As a result of this change and the addition of chlorine trifluoride to ECCN 1C111, as described above, ''technology'' for the ''development'' or ''production'' of chlorine trifluoride ($ClF_3$) will be controlled under ECCN 1E001 for missile technology (MT Column 1), nuclear nonproliferation (NP Column 1), and anti-terrorism (AT Column 1) reasons.

In addition, this final rule amends the reference to ECCN 1E002.g, in the Related Controls paragraph of ECCN 1E001, to address control libraries (parametric technical databases) specially designed or modified to enable equipment to perform the functions of equipment controlled under either 1A004.c (Nuclear, biological and chemical (NBC) detection systems) or 1A004.d (Equipment for detecting or identifying explosives residues). Adding 1A004.d as a cross reference corrects an inadvertent but non-substantive omission in the EAR as ECCN 1E002.g refers to both 1A004.c and 1A004.d.

*ECCN 1E101 Amended*

This final rule amends the License Requirements section of ECCN 1E101, consistent with the ''technology'' controls of the Nuclear Suppliers Group (NSG), to apply nuclear nonproliferation (NP Column 1) controls to ''use'' ''technology'' for ECCN 1C111 items controlled for NP reasons (*i.e.,* chlorine trifluoride in ECCN 1C111.a.3.f). As a result of this change, ''use'' ''technology'' for chlorine trifluoride will be controlled for nuclear nonproliferation (NP Column 1), missile technology (MT Column 1), and anti-terrorism (AT Column 1) reasons under ECCN 1E101. This change is consistent with the amendment in this final rule to remove chlorine trifluoride from ECCNs 1C018.m and 1C238 and control chlorine trifluoride exclusively under ECCN 1C111.a.3.f . Prior to the effective date of this final rule, ''use'' ''technology'' for chlorine trifluoride will continue to be controlled under ECCN 1E201 for nuclear nonproliferation (NP Column 1) and anti-terrorism (AT Column 1) reasons, only. Once this final rule becomes effective, it will amend ECCN 1E201 to remove ''use'' ''technology'' for chlorine trifluoride.

*ECCN 1E201 Amended*

This final rule amends ECCN 1E201 by revising the ECCN heading to remove ''technology'' for ECCN 1C238 items (*i.e.,* chlorine trifluoride) consistent with the ECCN 1C111 and 1E101 changes described above, whereby chlorine trifluoride will be controlled under ECCN 1C111.a.3.f only and ECCN 1E101 will be amended to control ''use'' ''technology'' for chlorine trifluoride.

*Conforming Amendments to ECCNs 1A008, 1C011, and 1C992*

This final rule also revises the Related Controls paragraphs in ECCNs 1A008 and 1C011 and both the Related Controls and Related Definitions paragraphs in ECCN 1C992 to reflect the addition of new ''600 series'' ECCN 1C608, as described above.

Changes to the EAR Amendments Proposed in the May 2 (Energetic Materials) Rule

*Changes To Make New ECCNs 1B608 and 1C608 Consistent With the CCL Order of Review*

Supplement No. 4 to part 774 of the EAR provides an ''Order of review'' that gives ''600 series'' ECCNs precedence over non-''600 series'' ECCNs when classifying an item. Accordingly, the controls in ECCN 1B608.a, .b, and .x in this final rule differ from the controls proposed in the May 2 (energetic materials) rule in that they do not limit the scope of the equipment, complete installations, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' specified in ECCN 1B608.a, .b, and .x, respectively, to items that are not controlled elsewhere on the CCL. This final rule also revises the controls in ECCN 1C608.n in a similar manner. This means that, if an item subject to the EAR is described by a ''600 series'' ECCN (*e.g.,* ECCN 1B608 or ECCN 1C608), then the item would be controlled under the ''600 series'' ECCN even if it were also described elsewhere on the CCL under a non-''600 series'' ECCN.

**Personal Protective Equipment, Shelters and Related Items**

BIS received seven public comments in response to the June 7 (protective equipment) rule.

*Public Comments Regarding Body Armor*

*Comment:* One commenter stated that the controls for soft body armor in ECCNs 1A005.a and 1A613.d.1 differ only by whether the body armor was ''manufactured to military standards or specifications'' and thus is dependent on the class of end user (*e.g.,* police vs. military).

*Response:* BIS does not agree with this concern. Basing a control on military standards or specifications provides the necessary specificity to delineate that control regardless of the end user or its activities. Generally, when developing a product, one intends to meet military specifications and does not do so inadvertently. Consequently, BIS does not believe that the parameters proposed for soft body armor should be changed.

*Comment:* One commenter expressed concerns that ECCNs 1A005.a and 1A613.d.1 use ''military standards or specifications'' without defining that term, and the commenter proposed using ''specifically designed'' instead. Another commenter recommended adding the Note to ML13.d.1 in the WAML to ECCNs 1A005 and 1A613 to provide guidance on interpreting ''military standards or specifications.'' The Note to ML13.d.1 provides that ''military standards or specifications include, at a minimum, specifications for fragmentation protection.''

*Response:* BIS accepts the recommendation to use the Note to ML13.d.1 but does not accept the recommendation to use ''specifically designed.'' While BIS believes that the commenter intended to recommend ''specially designed'' rather than ''specifically designed,'' BIS believes the Note to ML13.d.1 provides the necessary guidance on interpreting the phrase military standards or specifications, and is consistent with the Wassenaar Arrangement. Thus, this final rule includes new notes in ECCNs 1A005 and 1A613 that provide that military standards or specifications include, at a minimum, specifications for fragmentation protection.

*Comment:* One commenter recommended that the text ''or foreign national equivalents'' be added to the description of hard body armor plates in ECCN 1A005.b to assist classifying foreign origin items in the United States that are not NIJ rated.

*Response:* BIS accepts this recommendation and uses the phrase ''national equivalents'' to conform the text in ECCN 1A005.b. to the text in the related Wassenaar Arrangement Dual Use List entry. BIS interprets the phrase to include standards of other nations that are equivalent to NIJ standards. The same issue could arise with body armor controlled under ECCNs 1A005.a, 1A613.d.1, and 1A613.d.2, so BIS is also inserting conforming text to those entries in accordance with the WAML and the Wassenaar Arrangement Dual-Use List.

*Comment:* One commenter noted that the heading in ECCN 1A005 included ''components'' but no components were controlled in the entry.

*Response:* BIS has revised ECCN 1A005 to address the issue of ''components'' as well as to ensure that the entry conforms to the Wassenaar Arrangement. To that end, BIS has revised ECCN 1A005.a to read: ''[s]oft body armor not manufactured to military standards or specifications, or to their equivalents, and 'specially designed' 'components' therefor.'' While with this change, made in response to a public comment, ''components'' are controlled under ECCN 1A005.a, BIS notes that this control does not apply to items such as straps, fasteners, vests not containing body armor plates, or clothing not containing body armor plates.

While these revisions to ECCN 1A005 ensure that the entry conforms to the Wassenaar Arrangement, BIS is also revising the ECCN to maintain the specificity provided by the June 7 (protective equipment) rule. To that end, BIS is adding a new License Requirements Notes paragraph to the ECCN to provide that soft body armor not manufactured to military standards or specifications must provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008) to be controlled under 1A005.a. The note clarifying ''military standards or specifications'' will also be in the new License Requirements Notes paragraph.

*Public Comments Regarding Helmets*

*Comment:* One commenter requested guidance on what constitutes a military helmet in ECCN 1A613.c versus a police helmet in ECCN 0A979.

*Response:* The June 7 (protective equipment) rule proposed no changes to the scope of ECCN 0A979. The proposed rule only affected helmets controlled on the USML. As such, the proposed rule and this final rule make no changes to the scope of controls for helmets in ECCN 0A979 vis-à-vis helmets moving from the USML to ECCN 1A613.c. BIS takes the position that a helmet ''specially designed'' for use by a military is a military helmet and a helmet ''specially designed'' for use by non-military police forces is a police helmet.

*Comment:* One commenter opposed the proposed movement of helmets from ECCN 0A018 to ECCN 1A613 due to the increase in controls for the helmets and related technology. The commenter stated that the use of License Exception STA would not make up for additional controls for operation, installation, maintenance, repair, overhaul, and refurbishing technology, as well as the elimination of the use of License Exception TSR. The commenter recommended that TSR be allowed for military helmet technology.

*Response:* BIS does not accept this recommendation. Consistent with other proposed ''600 series'' ECCNs, ECCN 1A613 includes some items in a 018 ECCN. Since the commenter did not provide any rationale for why a distinction should be made for military helmet technology, BIS is maintaining the proposed controls to be consistent with the structure and framework of ECR.

*Comment:* One commenter stated that military helmets described in ECCN 1A613.c include conventional military steel helmets proposed to be controlled under ECCN 1A613.y.1.

*Response:* BIS believes that the proposed Note 1 to ECCN 1A613.c provided the necessary guidance to show readers that ECCN 1A613.c would not control conventional military steel helmets in ECCN 1A613.y.1. However, to make this point more clearly, BIS is moving the applicable text in Note 1 to a parenthetical in ECCN 1A613.c. Under this final rule, ECCN 1A613.c reads: ''[m]ilitary helmets (other than helmets controlled under 1A613.y.1) and helmet shells providing less than NIJ Type IV protection.''

*Comment:* One commenter recommended only controlling the following helmet components: helmet shell, liner, and comfort pad. The commenter reasoned that this would be consistent with ML13.c of the WAML, which applies to certain helmets and ''specially designed components therefor (*i.e.,* helmet shell, liner and comfort pads).''

*Response:* BIS does not accept this recommendation. The June 7 (protective equipment) rule and the State Department's counterpart rule, 77 FR 33698 (June 7, 2012), intended to address all items in USML Category X. Limiting the controls on helmet components to helmet shells, liners, and comfort pads would not match the current coverage of the ITAR. Thus, BIS is not revising ECCN 1A613 as a result of this comment. To the extent one believes that other parts and components ''specially designed'' for these or any other items in the ''600 series'' and other EAR controls do not warrant such controls, then one may submit a request pursuant to 15 C.F.R. § 748.3(e) for an interagency determination that such items do not warrant being controlled by the relevant ''specially designed'' catch-all provision.

*Comment:* One commenter recommended that BIS create a new 1A005.c for helmet and helmet shells not manufactured to military standards or specifications that provide ballistic protection less than NIJ Type IV, revise ECCN 1A613.c to control helmets and helmet shells manufactured to military standards or specifications that provide ballistic protection less than NIJ Type IV, and provide positive parameters for controlling police helmets in ECCN 0A979.

*Response:* BIS does not accept this recommendation. ECCN 1A005 is a multilateral control, and as such, BIS declines to insert a new unilateral control within that ECCN. BIS believes that the text in ECCNs 1A613.c and 0A979 contains adequate controls and does not require further modifications based on this comment.

*Public Comments Regarding Shelters*

*Comment:* One commenter requested a more detailed definition to distinguish when a shelter becomes export controlled. The commenter believed the point should be when certain modifications or installations are made, such as the installation of electronic or other equipment that is itself export-controlled.

*Response:* BIS does not accept the commenter's recommendations. The proposed control is consistent with the current controls of USML Category X, and no changes are made in this final rule.

*Comment:* One commenter requested that the following shelters should be designated EAR99: shelters modified for lighting or raceway, power and signal distribution, heating and air conditioning, equipment racks or cabinets, electromagnetic/radio frequency interference (EMI/RFI), chemical agent resistance coating (CARC) paint, skid or jack assemblies, casters, ladders or roof access steps, special door openings or emergency kickout or escape hatch panels, or generator trailers.

*Response:* BIS will not provide a negative list of shelters to determine what is controlled under ECCN 1A613.b. However, BIS believes that applying the definition of ''specially designed'' will alleviate concerns over what shelters are controlled in ECCN 1A613.b. Further, BIS notes that the use of CARC paint does not affect whether a shelter is controlled on the USML or CCL, and that certain EMI shelters are controlled under USML Category XI.

*Revision to 1A613 To Be Consistent With ''600 series'' Order of Review*

In addition to the changes made in response to the public comments described above, this rule removes from ECCN 1A613.e and .x text that appeared in the proposed rule, which would have excluded from that ECCN items that appear elsewhere on the CCL. This change is made to be consistent with the CCL order of review in Supplement No. 4 to part 774 of the EAR, which became effective on October 15, 2013. That order of review gives 600 series ECCNs precedence over other ECCNs.

*Public Comments Regarding License Exceptions TMP and BAG*

*Comment:* One commenter requested that helmets classified under ECCN 1A613.c be included along with body armor classified under ECCN 1A613.d for eligibility under License Exceptions TMP and BAG.

*Response:* BIS accepts this recommendation. On May 2, 2012, the Department of State amended the ITAR exemption for personal protective equipment in § 123.17 to add helmets when they are included with the body armor and to add chemical agent protective gear. In order to match the scope of the ITAR exemption for personal protective equipment, BIS is adding ECCN 1A613.c helmets to the list of items eligible for License Exceptions TMP and BAG (§§ 740.9(a)(11) and 740.14(h), respectively). BIS further notes that body armor or helmets subject to the EAR but not identified in ECCN 1A613 are not subject to the same restrictions in §§ 740.9(a)(11) and 740.14(h) and may thus be authorized under other provisions of TMP or BAG.

*Comment:* Two commenters recommended that BIS eliminate the proposed requirement under TMP and BAG to present the items to U.S. Customs and Border Protection (CBP) for inspection. The commenters reasoned that the CBP inspection requirement would render TMP and BAG unusable as U.S. contractors often obtain personal protective equipment at locations other than the point of departure in the United States, and potential users of the license exceptions often place the equipment into checked baggage, rendering it inaccessible for inspection by CBP.

*Response:* BIS accepts this recommendation and has removed the CBP inspection requirement from TMP and BAG. Requiring a CBP inspection for items of a non-offensive nature that will be used by U.S. persons likely in support of U.S. military forces serves no national security or foreign policy purpose. Retaining this proposed requirement would treat body armor (and now helmets) more stringently than all other items subject to the EAR that would be available for a license exception. CBP, however, has the discretion to inspect these and any other items exported from the United States.

*Comment:* One commenter recommended that reexports and retransfers (which we understand to be transfers (in-country)) be allowed, to accommodate the redeployment of employees under a government contract and to accommodate requests from the U.S. Government to leave personal protective equipment owned and issued by the U.S. Government overseas for issue to other contractors. Another commenter stated that the issuing agency may require the equipment to remain in the country after departure by the contractor. The commenter recommended that a signed receipt of the equipment should be sufficient to show its return to the U.S. Government.

*Response:* BIS accepts the recommendation to allow reexports and transfers (in-country) for personal protective equipment authorized under TMP and BAG. However, such reexports or transfers (in-country) must be limited to U.S. persons. BIS believes that allowing for reexports and transfers (in-country) to U.S. persons only under TMP and BAG, in addition to the possible use of License Exception GOV, will sufficiently enable potential transfers of personal protective equipment among U.S. contractors and the U.S. Government.

*Miscellaneous Comments*

*Comment:* One commenter requested clarification on whether gas masks are personal protective equipment and fall under ECCN 1A613.

*Response:* BIS recommends that reviewers follow the guidance in Supplement No. 4 to part 774 of the EAR. Gas masks would only be protective equipment under ECCN 1A613.e if they are not described elsewhere on the USML (*e.g.,* USML Category XIV) or the CCL (*e.g.,* ECCN 1A004), and if they have been ''specially designed'' for military applications.

*Comment:* One commenter recommended that BIS define ''equipment'' or not use quotation marks with the term.

*Response:* Section 772.1 of the EAR provides a definition for ''equipment,'' which became effective on October 15, 2013.

*Comment:* One commenter mentioned that the proposed Note to 1A613.d references protective garments in ECCN 1A005, yet 1A005 does not contain protective garments.

*Response:* BIS has removed the reference to protective garments in the Note to 1A613.d to ensure consistency with ECCN 1A005 and the Wassenaar Arrangement.

*Comment:* One commenter stated that the proposed USML Category X and ECCN 1A613 may not cover armored plate ''suitable for military use'' in ML13.a and ''constructions'' in ML13.b. In addition, the commenter believed that the proposed rules did not cover software for software under ML21.

*Response:* BIS believes that the proposed controls cover those items previously controlled on the ITAR, and thus no changes are needed. As with all controls, BIS will monitor conformance with its multilateral obligations.

*Comment:* One commenter questioned whether protective garments under ML13.d and ''specially designed'' ''components'' therefor are captured under USML Category X or ECCN 1A613.

*Response:* BIS believes that the addition of the note to ECCN 1A613.d.1 and the changes made to conform ECCN 1A005 to the Wassenaar Arrangement already address the commenter's concerns.

*Comment:* One commenter noted that 1A613.y refers to ''parts,'' ''components,'' ''accessories,'' and ''attachments,'' but ECCN 1A613.y.1 only applies to certain helmets, which do not fit the description of items in ECCN 1A613.y.

*Response:* BIS agrees that ECCN 1A613.y does not adequately describe the helmets in ECCN 1A613.y.1. Consequently, BIS has changed the ECCN 1A613.y heading to ''[o]ther commodities as follows.''

*Comment:* One commenter stated that various items currently controlled under ECCNs 2B018, 2D018, and 2E018 are proposed to be controlled under the 1Y613 series.

*Response:* Under ECR, items currently controlled under ''018'' ECCNs will be moved to the ''600 series.'' The June 7 (protective equipment) rule followed this structure for personal protective equipment, shelters, and related items.

*Comment:* One commenter stated that the heading in ECCN 1D613 includes software for installation, repair, overhaul, or refurbishing. However, the commenter pointed out that no such software is included in the List of Items Controlled paragraph of that ECCN.

*Response:* BIS has revised the heading of ECCN 1D613 to match the scope of software controls for ''600 series'' items that was finalized under the April 16 (initial implementation) rule. For

additional information, see the section on Consistency of Controls above.

*Comment:* One commenter stated that the phrase ''less than NIJ Type IV'' or ''less than NIJ level III'' describes what is not controlled but does not describe what is controlled.

*Response:* BIS does not agree with this comment. Utilizing the order of review described in Supplement No. 4 to part 774 of the EAR, (as published in the April 16 (initial implementation) rule and which became effective on October 15, 2013), one would review USML Category X and ECCNs 1A613 and 1A005 to determine what is controlled. The plain meaning of the phrase cited by the commenter clearly identifies what is and what is not controlled.

*Comment:* One commenter noted that the June 7 (protective equipment) rule proposed to control items that are not currently controlled by the Wassenaar Arrangement, including ECCNs 1A613.b.2 (shelters specially designed to protect against nuclear, biological, or chemical contamination); 1A613.e (other personal protective equipment specially designed for military applications); 1A613.x (for 1A613.a, 1A613.b.2, 1A613.c, or 1A613.e); 1B613 (for development); 1B613.a (for production of portions of USML Category X (a) and (d), as well as parts of 1A613.b.2, .e, .x, and .y); 1D613.a (for portions of 1A613.b.2, .e, .x, .y, and 1B613); and 1E613.a (for portions of 1A613.b.2, .e, .x, .y, 1B613, and 1D613).

*Response:* BIS understands that some portions of the 1Y613 series will control items that are not controlled by the Wassenaar Arrangement. However, the Departments of Commerce, State, and Defense have determined that any such items warrant control as part of the ''600 series'' if they are currently controlled on the USML.

*Conforming Changes to License Exceptions*

BIS previously noted that the license exceptions of the EAR should be no more restrictive than the exemptions of the ITAR (*see, e.g., Proposed Revisions to the Export Administration Regulations: Implementation of Export Control Reform; Revisions to License Exceptions After Retrospective Regulatory Review,* 77 FR 37524 (June 21, 2012)). Consequently, BIS is revising part 740 to ensure the scope of License Exceptions TMP and BAG are no more restrictive than § 123.17 of the ITAR, which provides exemptions for the temporary export of certain personal protective equipment.

When the June 7 (protective equipment) rule was drafted, the ITAR exemption under § 123.17(g) allowed the temporary export of body armor to Afghanistan and Iraq under certain conditions. On May 2, 2012, the Department of State expanded the scope of the exemption to all § 126.1 countries subject to certain conditions. To match the scope of the ITAR, BIS is amending § 740.2(a)(12) to allow for the use of TMP and BAG for certain personal protective equipment destined to or in countries in Country Group D:5. These revisions are being made consistent with the April 16 (initial implementation) rule, which amended § 740.2 to describe the restrictions on the use of license exceptions for ''600 series'' items. Requirements for exporting, reexporting, or transferring (in-country) certain personal protective equipment to countries in Country Group D:5 are described in § 740.9(a)(11)(ii) for TMP and § 740.14(h)(2) for BAG.

To ensure conformance with the scope of the ITAR, BIS is also revising License Exception TMP to allow temporary exports, reexports, or transfers (in-country) of personal protection equipment for a four-year period pursuant to new § 740.9(a)(11)(iii). BIS is also amending § 740.9(a)(14) to note the exception to the general rule that temporary exports, reexports, or transfers (in-country) under TMP are authorized for one year after the date of export, reexport, or transfer (in-country). These amendments to TMP will allow the license exception to be more comparable to the scope of the exemption for personal protective equipment under § 123.17 of the ITAR, which does not impose a time limitation. Similarly, BIS has removed references to ''temporary'' export in License Exception BAG to ensure that it is no more restrictive than the ITAR.

The amendments to License Exception TMP to describe the exception for personal protective equipment have been moved to § 740.9(a)(11) instead of the proposed § 740.9(a)(3)(v) under the June 7 (protective equipment) rule to conform with a restructured and streamlined License Exception TMP that became effective on October 15, 2013

*Conforming Changes to ECCNs 0A018, 1A005, 1B613, 1D613, and 1E613*

Differences in the text of ECCN 0A018 between the June 7 (protective equipment) rule and this final rule are the result of changes made by the July 8 (vehicles, vessels and miscellaneous equipment) rule. In addition, this rule omits the last sentence in the Related Controls paragraph of ECCN 1A005 from the June 7 (protective equipment) rule. That sentence referenced § 746.8(b)(1), which does not exist.

For ECCN 1A613, this rule revises 1A613.x to add a reference to USML Category X to ensure that ''parts,'' ''components,'' ''accessories,'' and ''attachments'' that are themselves not enumerated in Category X but that are ''specially designed'' for commodities enumerated in Category X are captured under 1A613.x. Further, this rule removes paragraphs .c-.x and the .y paragraph from 1B613 since no other items are controlled under that ECCN. Also, BIS is amending 1D613.y to remove references to 1D613.y.1 through y.99 since 1D613.y only controls specific ''software'' ''specially designed'' for the ''production,'' ''development,'' or operation or maintenance of commodities controlled by ECCN 1A613.y. Similarly, this rule removes references in 1E613.y to 1E613.y.1 through y.99, since 1E613.y only controls specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 1A613.y or 1D613.y.

**Items Related to Launch Vehicles, Missiles, Rockets, and Military Explosive Devices**

This rule finalizes the provisions contained in the January 31 (launch vehicles) proposed rule. This proposed rule from BIS was published in conjunction with a rule from the Department of State, Directorate of Defense Trade Controls, proposing to amend the list of articles controlled by USML Category IV (*see* 78 FR 6750 and 78 FR 6765, respectively).

Specifically, this final rule describes how articles that the President determines no longer warrant control under Category IV of the USML will now be controlled on the CCL. These articles, which are related to launch vehicles, missiles, rockets, and military explosive devices enumerated in USML Category IV, will, upon the effective date of this final rule, be controlled under new ECCNs 0A604, 0B604, 0D604, 0E604, 9A604, 9B604, 9D604, and 9E604 on the CCL. In addition, this final rule amends ECCNs 0D001, 0E001, 9B115, 9B116, 9D001, 9D002, 9D003, 9D104, 9E001, 9E002, 9E101, and 9E102 to make clarifications and conforming changes based on the addition of the aforementioned 0Y604 and 9Y604 ECCNs to the CCL and amendments by the Department of State, Directorate of Defense Trade Controls, to the list of articles controlled by USML Category IV

that are being published in conjunction with this final rule.

**Summary of Public Comments Submitted in Response to the Proposals Contained in the January 31 (Launch Vehicles) Rule Published by BIS**

BIS received comments from three parties, which are summarized below.

*ECCN 0B604.a (Test, Inspection, and Other Production ''Equipment'' ''Specially Designed'' for the ''Development'' or ''Production'' of Commodities in ECCN 0A604 or Related Defense Articles in USML Category IV)*

*Comment:* One commenter stated that the use of the term ''related'' in proposed new ECCN 0B604.a could cause confusion, because it implies that ECCN 0B604.a would control test, inspection, and other production ''equipment'' for ''related'' defense articles in USML Category IV, without identifying what specific defense articles are ''related'' to the commodities in proposed new ECCN 0A604. The commenter indicated that this approach would run counter to the stated ECR objective of clearer, performance-based controls.

*Response:* This final rule addresses the commenter's concerns by revising new ECCN 0B604.a to control test, inspection, and other production ''equipment'' that is ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 0A604 or the bombs, torpedoes, depth charges, mines and hand grenades, and ''parts,'' ''components,'' ''accessories'' and ''attachments'' therefor, controlled under USML Category IV. Specifically, this final rule replaces the term ''related'' in ECCN 0B604.a, as proposed in the January 31 (launch vehicles) rule, with a reference to specific types of defense articles in USML Category IV (*i.e.,* bombs, torpedoes, depth charges, mines and hand grenades, and parts, components, accessories and attachments therefor). This change is consistent with BIS's decision to control test, inspection, and other production ''equipment'' coming over to the CCL from USML Category IV under two separate ECCNs (*i.e.,* new ECCNs 0B604 and 9B604), according to whether such equipment is identified on the MTCR Annex. Because test, inspection, and other production ''equipment'' for the bombs, torpedoes, depth charges, mines and hand grenades, and parts, components, accessories and attachments therefor, controlled under USML Category IV, is not identified on the MTCR Annex, this equipment is controlled under new ECCN 0B604 (which does not contain any MT-controlled items), while new ECCN 9B604 includes MT-controlled equipment related to launch vehicles, missiles, and rockets in USML Category IV. Consistent with this approach, this final rule also makes conforming changes to the heading of ECCN 9A604 and to ECCN 9B604.c to clarify that these two ECCNs do not control items related to the bombs, torpedoes, depth charges, mines and hand grenades, and parts, components, accessories and attachments therefor, that are enumerated in USML Category IV.

*Format of ECCN Headers*

*Comment:* One commenter recommended revising the headers for the ''600 series'' ECCNs containing Category IV-related items by adding the parenthetical phrase ''(*see* List of Items Controlled),'' at the end of the ECCN headers, consistent with the format described in BIS's November 29, 2012, rule (77 FR 71214) that proposed certain amendments to the EAR to make the CCL clearer.

*Response:* This final rule revises the headers of new ''600 series'' ECCNs 0A604, 0B604, 9A604, and 9B604, as proposed in the January 31 (launch vehicles) rule, by adding the parenthetical phrase ''(see List of Items Controlled),'' at the end of the ECCN headers.

*Controls on Commercial Application Countermeasure Systems for USML Category IV Manpad Systems*

*Comment:* One commenter indicated that controlling commercial application countermeasures systems with monitoring and detection capability for man-portable air defense (MANPAD) systems under USML Category IV(c), as proposed by the rule published by the U.S. Department of State, Directorate of Defense Trade Controls, in conjunction with BIS's January 31 (launch vehicles) rule, would require ITAR-level protection of civil aircraft platforms, which would be impractical under the conditions of civil transport. In lieu of the proposed level of control for such systems, the commenter suggested one of the following alternatives:

- Transfer of such systems to a ''600 series'' ECCN on the CCL;
- Establishment of a flexible licensing policy under the ITAR to address situations in which such systems are installed on civil aircraft platforms; or
- The addition of a Note to USML Category IV(c) that applies a different level of control to such systems under a defined set of circumstances (*e.g.,* when such systems are installed on civil aircraft platforms).

*Response:* The commenter's recommendation is not accepted for the purposes of this final rule. Paragraph (d) of the Note to WAML 4.c excludes from control aircraft missile protection systems (AMPS) ''installed'' on ''civil aircraft,'' provided that all of the following conditions apply: (1) The AMPS is only operable in a specific ''civil aircraft'' in which the specific AMPS is installed and for which either a civil Type Certificate or an equivalent document recognized by the International Civil Aviation Organization (ICAO) has been issued; (2) the AMPS employs protection to prevent unauthorized access to ''software;'' and (3) the AMPS incorporates an active mechanism that forces the system not to function when it is removed from the ''civil aircraft'' in which it was ''installed.'' However, this WAML exclusion does not apply to any of the defense articles enumerated in USML Category IV as amended by the companion rule that is being published by the U.S. Department of State, Directorate of Defense Trade Controls, in conjunction with this final rule. Instead, this WAML exclusion will be addressed in subsequent ECR amendments to be published by State and Commerce that will address specific ITAR controls on AMPS and any exclusions from such ITAR controls that may apply.

*Recommended Changes to Certain ECCNs in CCL Category 9A, 9B, and 9C That Were Not Addressed in the January 31 (Launch Vehicles) Rule*

*Comment:* One commenter noted that some of the proposed ECR amendments to the EAR and the ITAR appeared to be open to the interpretation that if items subject to the WA or MTCR controls on aircraft, gas turbine engines, missiles, or spacecraft are not clearly described in the USML as subject to the ITAR, then such items are subject to the EAR, instead. The commenter recommended that both the EAR and the ITAR be amended to clearly indicate whether this interpretation is correct.

*Response:* Supplement No. 4 (Commerce Control List Order of Review), which became effective on October 15, 2013, provides guidance on jurisdictional issues involving the EAR and the ITAR. With respect to export control jurisdiction questions, new Supplement No. 4 provides that, if an item is described in the USML, including one of its catch-all paragraphs, then the item is a ''defense article'' subject to the ITAR. Conversely, if an item is not described on the USML, and is otherwise ''subject to the EAR,'' then it should be classified using the

steps provided in Supplement No. 4 to determine the appropriate level of control. Amendments to § 120.5 of the ITAR that also became effective on October 15, 2013 provide that if a defense article or service is covered by the USML, its export and temporary import are regulated by the Department of State. However, these regulatory provisions are not intended to be interpreted in isolation from other provisions in the EAR and the ITAR. Although the ECR-related amendments to the ITAR are intended, to the extent practicable, to provide a positive list of specific types of equipment and related parts, components, accessories, and attachments that continue to warrant control on the USML, the fact that a particular article is not specifically enumerated on the USML does not necessarily provide a sufficient basis, in and of itself, for making a determination that the article is controlled on the CCL, because the USML continues to have a few ''catch-all'' controls. In short, the guidance provided in Supplement No. 4 to part 774 of the EAR and in § 120.5 of the ITAR must be viewed within the context of other EAR and ITAR regulatory provisions.

*Comment:* One commenter questioned why some MTCR ''production equipment'' and ''production facilities'' for USML Category IV articles remained in ECCN 9B115 or ECCN 9B116, respectively, while others were included in proposed new ECCN 9B604. The commenter also questioned why ''production equipment'' and ''production facilities'' for articles described in paragraph (h)(14), ''combustion chambers,'' and paragraph (h)(25), ''fuzes,'' of State's Category V proposed rule were not included in proposed new ECCN 9B604 or in ECCNs 9B115 and 9B116. In addition, the commenter recommended changes to a number of other CCL Category 9 ECCNs to clarify component controls, eliminate ambiguous terms, and add items subject to the EAR to certain placeholder ECCNs that only describe items enumerated in USML Category IV.

*Response:* This final rule does not adopt the commenter's recommended changes. ECCNs 9B115 and 9B116 control only ''production equipment'' and ''production facilities,'' respectively, that are identified on the MTCR Annex, but not on the WAML or the WA dual-use list (*i.e.,* all items in these two ECCNs are subject to MT controls, but not NS controls). New ECCN 9B604 does not control these items, because it is designed to control items identified on the WAML, some of which are also listed in the MTCR Annex (*i.e.,* all items in ECCN 9B604 are subject to NS controls). For this reason, BIS continues to control some ''production equipment'' and ''production facilities'' under ECCN 9B115 or 9B116, instead of new ECCN 9B604. As for ''production equipment'' and ''production facilities'' for articles described in paragraph (h)(14) and paragraph (h)(25) of State's Category V proposed rule, note that, although these production items are not specifically identified in new ECCN 9B604, paragraph .c of ECCN 9B604 controls test, inspection, and other production ''equipment'' that is ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities described in ECCN 9A604, or defense articles controlled under USML Category IV, and not specified in ECCN 0B604.a or in ECCN 9B604.a, .b, or .d.'' Given the broad scope of ECCN 9B604.c, BIS does not think that any further changes to ECCN 9B604 are necessary in this regard. Finally, the recommended changes to other CCL Category 9 ECCNs (*i.e.,* to clarify component controls, eliminate ambiguous terms, and add items subject to the EAR to certain placeholder ECCNs) are not adopted, because the recommended changes are outside the scope of the January 31 (launch vehicles) rule, as well as this final rule.

*Recommended Changes to ''Software'' and ''Technology'' ECCNs in CCL Category 0D and 0E and CCL Category 9D and 9E*

*Comment:* One commenter recommended that ''software'' and ''technology'' should be controlled by the same agency that controls production equipment (*i.e.,* Commerce) and recommended corresponding changes to ECCNs 0D604 and 9D604 to control ''software'' ''specially designed'' for the ''development'' or ''production'' of defense articles in USML Category IV. In addition, the commenter recommended that ECCNs 0E604 and 9E604 be expanded to control ''technology'' ''required'' for the ''development'' or ''production'' of defense articles in USML Category IV.

*Response:* BIS did not adopt this recommendation. Based on the review of USML categories (including USML Category IV) described earlier in the preamble to this rule, ECCNs 0D604 and 9D604 only control ''software'' for specified items that are ''subject to the EAR'' and ECCNs 0E604 and 9E604 only control ''technology'' for specified items that are ''subject to the EAR'' (*i.e.,* these four ECCNs do not control ''software'' or ''technology'' for any of the defense articles enumerated in USML Category IV). In short, as a result of the review, ''software'' and ''technology'' for launch vehicles, missiles, rockets, torpedoes, bombs, mines, and other military explosive devices and related articles enumerated in USML Category IV will continue to be controlled under Category IV and not under the related ''software'' and ''technology'' entries on the CCL (*i.e.,* ECCNs 0D604 and 9D604 and ECCNs 0E604 and 9E604, respectively).

*Comment:* One commenter recommended that the following ECCNs be revised to reflect the current MTCR controls: ECCNs 9D001 through 9D004; ECCNs 9D101 and 9D103 through 9D105; ECCNs 9E001 and 9E002; and ECCNs 9E101 and 9E102.

*Response:* This final rule does not adopt the commenter's recommended changes to the above-referenced ECCNs, because the recommended changes are outside the scope of the January 31 (launch vehicles) rule, as well as this final rule. Further, the items addressed by the January 31 (launch vehicles) rule and the companion rule published by the Department of State, Directorate of Defense Trade Controls were reviewed to ensure the consistency of the CCL controls with any applicable controls indicated on the current MTCR Annex.

**Changes Made by This Rule to Controls on Items Related to Launch Vehicles, Missiles, Rockets, and Military Explosive Devices**

This final rule creates four new 600 series ECCNs in CCL Category 0 (ECCNs 0A604, 0B604, 0D604, and 0E604) and four new 600 series ECCNs in CCL Category 9 (ECCNs 9A604, 9B604, 9D604, and 9E604) that control articles the President has determined no longer warrant control under USML Category IV. This final rule also amends ECCNs 0D001, 0E001, 9B115, 9B116, 9D001, 9D002, 9D003, 9D104, 9E001, 9E002, 9E101, and 9E102 to make clarifications and conforming changes based on the addition of the aforementioned 0Y604 and 9Y604 ECCNs to the CCL and amendments by the Department of State, Directorate of Defense Trade Controls, to the list of articles controlled by USML Category IV that are being published in conjunction with this final rule. These amendments are discussed in more detail below.

*New ECCN 0A604: Commodities Related to Military Explosive Devices and Charges*

In new ECCN 0A604, paragraph .a controls demolition blocks, and detonators designed, modified, or adapted therefor. Paragraph .b of ECCN 0A604 controls military explosive

excavating devices. A note to 0A604.a and .b indicates that this new ECCN does not control the detonators and other items described in ECCN 1A007 or ECCN 3A232. Paragraph .c of ECCN 0A604 controls smoke hand grenades and stun hand grenades (*e.g.,* ''flashbangs'') not described in ECCN 1A984. Paragraphs .d through .w of ECCN 0A604 are reserved. Paragraph .x of ECCN 0A604 controls ''parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity in paragraphs .a through .c of ECCN 0A604, or for a defense article in USML Category IV, and not specified elsewhere on the USML. Two notes to paragraph .x indicate that: (1) Forgings, castings, and other unfinished products are controlled by paragraph .x if they have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function, as commodities specified in paragraph .x; and (2) ''parts,'' ''components,'' ''accessories,'' and ''attachments'' specified in USML Category IV(h) are subject to the controls of that paragraph.

*New ECCN 0B604: Test, Inspection, and Production ''Equipment'' and Related Commodities ''Specially Designed'' for the ''Development'' or ''Production'' of Commodities in ECCN 0A604 or Related Defense Articles in USML Category IV*

In new ECCN 0B604, paragraph .a controls test, inspection, and other production ''equipment'' that is ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 0A604 or for bombs, torpedoes, depth charges, mines and hand grenades, and ''parts,'' ''components,'' ''accessories'' and ''attachments'' therefor, controlled under USML Category IV. In the January 31 (launch vehicles) rule, 0B604.a contained test, inspection, and production ''equipment'' for ''commodities in ECCN 0A604, or related defense articles controlled under USML Category IV, and not specified elsewhere on the USML.'' The reason for revising the controls in ECCN 0B604.a is twofold. First, one of the public comments on the January 31 (launch vehicles) rule stated that the use of the term ''related'' in ECCN 0B604.a may cause confusion and also would run counter to the stated ECR objective of clearer, performance-based controls. ECCN 0B604.a now identifies the specific types of articles in USML Category IV to which the test, inspection, and production ''equipment'' described in 0B604 is ''related.'' Second, the intent of the controls in new ECCNs 0B604 and 9B604 was to control test, inspection, and other production ''equipment'' coming over to the CCL from USML Category IV under two separate ECCNs, according to whether such equipment was identified on the Missile Technology Control Regime (MTCR) Annex. Since test, inspection, and other production ''equipment'' for the bombs, torpedoes, depth charges, mines and hand grenades, and ''parts,'' ''components,'' ''accessories'' and ''attachments'' therefor, controlled under USML Category IV are not identified on the MTCR Annex, this equipment is controlled under new ECCN 0B604 (which does not contain any MT-controlled items), instead of new ECCN 9B604 (which contains MT-controlled equipment related to launch vehicles, missiles, and rockets in USML Category IV). Paragraphs .b through .w of new ECCN 0B604 are reserved. Paragraph .x of new ECCN 0B604 controls ''parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity subject to control in paragraph .a of ECCN 0B604.

*New ECCN 0D604: ''Software'' ''Specially Designed'' for the ''Development,'' ''Production,'' Operation, or Maintenance of Commodities Controlled by ECCN 0A604 or 0B604*

ECCN 0D604.a controls ''software'' ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of commodities controlled by ECCN 0A604 or ECCN 0B604. Paragraph .b of ECCN 0D604 is reserved.

*New ECCN 0E604: ''Technology'' ''Required'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul, or Refurbishing of Commodities Controlled by ECCN 0A604 or 0B604, or ''Software'' Controlled by ECCN 0D604*

ECCN 0E604.a controls ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 0A604 or 0B604, or ''software'' controlled by ECCN 0D604. Paragraph .b of ECCN 0E604 is reserved.

*New ECCN 9A604: Commodities Related to Launch Vehicles, Missiles, and Rockets*

In new ECCN 9A604, the heading states that the entry controls commodities related to launch vehicles, missiles, and rockets and does not also reference ''torpedoes, bombs, and mines,'' as was the case in the January 31 (launch vehicles) rule. To the extent that the CCL controls any commodities related to the latter, they would be controlled under new ECCN 0B604, instead.

Paragraph .a of ECCN 9A604 controls thermal batteries ''specially designed'' for the systems described in USML Category IV that are capable of a range equal to or greater than 300 km.

Paragraph .b of ECCN 9A604 controls thermal batteries, except for thermal batteries controlled by ECCN 9A604.a, that are ''specially designed'' for the systems described in USML Category IV. Paragraph .c of ECCN 9A604 controls ''components'' ''specially designed'' for ramjet, scramjet, pulse jet, or combined cycle engines described in USML Category IV, including devices to regulate combustion in such commodities. Paragraph .d of ECCN 9A604 controls components ''specially designed'' for hybrid rocket motors described in USML Category IV that are usable in rockets, missiles, or unmanned aerial vehicles capable of a range equal to or greater than 300 km. Paragraph .e of ECCN 9A604 controls ''components'' ''specially designed'' for pressure gain combustion-based propulsion systems controlled under USML Category IV. Paragraphs .f through .w of ECCN 9A604 are reserved. Paragraph .x of ECCN 9A604 controls ''parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity in paragraphs .a through .d of ECCN 9A604, or a defense article in USML Category IV, and not specified elsewhere on the USML. Two notes to paragraph .x indicate that: (1) Forgings, castings, and other unfinished products are controlled by paragraph .x if they have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities specified in paragraph .x; and (2) ''parts,'' ''components,'' ''accessories,'' and ''attachments'' specified in USML Category IV(h) are subject to the controls of that paragraph.

*New ECCN 9B604: Test, Inspection, and Production ''Equipment'' and Related Commodities ''Specially Designed'' for the ''Development'' or ''Production'' of Commodities in ECCN 9A604 or Related Defense Articles in USML Category IV*

In new ECCN 9B604, paragraph .a controls ''production facilities'' ''specially designed'' for items that are controlled by USML Category IV(a)(1) or (a)(2). Paragraph .b of ECCN 9B604 controls test, calibration, and alignment equipment ''specially designed'' for

items that are controlled by USML Category IV(h)(28). Paragraph .c of ECCN 9B604 controls test, inspection, and other production ''equipment'' that is ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities described in ECCN 9A604, or defense articles controlled under USML Category IV, and not specified in ECCN 0B604.a or in ECCN 9B604.a, .b, or .d. In the January 31 (launch vehicles) rule, ECCN 9B604.c stated that it controlled test, inspection, and other production ''equipment'' for ''commodities described in ECCN 9A604, or defense articles controlled under USML Category IV, and not specified elsewhere on the CCL or the USML.'' This revision is intended to clarify the scope of controls on the test, inspection, and production equipment described in ECCN 9B604.c vis-à-vis the controls described in ECCN 0B604.a and in the other paragraphs of ECCN 9B604 (*i.e.,* 9B604.a, .b, and .d). Paragraph .d of ECCN 9B604 controls ''specially designed'' ''production facilities'' or production ''equipment'' for systems, sub-systems, and ''components'' controlled by USML Category IV(d)(1), (d)(7), (h)(1), (h)(4), (h)(6), (h)(7), (h)(8), (h)(9), (h)(11), (h)(20), (h)(21), (h)(26), or (h)(28). Paragraphs .e through .w are reserved. Paragraph .x of ECCN 9B604 controls ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' for a commodity subject to control in paragraph .a or .b of ECCN 9B604.

*New ECCN 9D604: ''Software'' ''Specially Designed'' for the ''Development,'' ''Production,'' Operation, or Maintenance of Commodities Controlled by ECCN 9A604 or 9B604*

ECCN 9D604.a controls ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCN 9A604 or ECCN 9B604. Paragraph .b of ECCN 9D604 is reserved.

*New ECCN 9E604: ''Technology'' ''Required'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul, or Refurbishing of Commodities Controlled by ECCN 9A604 or 9B604, or ''Software'' Controlled by ECCN 9D604*

ECCN 9E604.a controls ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or ''software'' controlled by ECCN 9A604, 9B604, or 9D604. Paragraph .b of ECCN 9E604 is reserved.

*Conforming Amendments to ECCNs 0D001, 0E001, 1A007, 3A232, 9B115, 9B116, 9D001, 9D002, 9D003, 9D104, 9E001, 9E002, 9E101, and 9E102*

This final rule amends ECCNs 0D001, 0E001, 1A007, 3A232, 9B115, 9B116, 9D001, 9D002, 9D003, 9D104, 9E001, 9E002, 9E101, and 9E102 to make clarifications and conforming changes based on both the addition of above-referenced new ''600 series'' ECCNs to CCL Categories 0 and 9 and the amendments to the list of defense articles controlled by USML Category IV that are contained in a final rule from the Department of State, Directorate of Defense Trade Controls (DDTC), that is being published in conjunction with this final rule.

First, this final rule amends the headings of ECCNs 0D001 and 0E001 to exclude ''software'' and ''technology'' for items in new ECCNs 0B604 and 0B614 from control under ECCNs 0D001 and 0E001, because such ''software'' and ''technology'' is controlled under new ECCNs 0D604 and 0E604 and ECCNs 0D614 and 0E614, respectively. In addition, the headings of ECCNs 9D001, 9D002, 9D003, 9E001, and 9E002 are amended to exclude ''software'' and ''technology'' for items in new ECCN 9B604 from control under these ECCNs, because such ''software'' and ''technology'' is controlled under new ECCNs 9D604 and 9E604, respectively. This rule also excludes from control under ECCNs 0D001 and 0E001 the following ''600 series'' ECCNs added to the CCL by BIS's July 8 (Category VI–VII–XIII–X) rule: ECCNs 0B606, 0B617, 0C606, and 0C617. This rule also excludes from control under ECCNs 9D001, 9D002, 9D003, 9E001, and 9E002 the following ''600 series'' ECCNs added to the CCL on October 15, 2013: ECCNs 9B610 and 9B619.

Second, this final rule amends ECCNs 9D001, 9D002, 9D003, 9D104, 9E001, 9E002, 9E101, and 9E102 by removing from the headings of these ECCNs all references to the CCL Category 9 placeholder ECCNs that describe only items subject to the export licensing jurisdiction of DDTC. Furthermore, this rule amends the Related Controls paragraphs of the ECCNs indicated above to identify the items described in the placeholder ECCNs as subject to the export licensing jurisdiction of DDTC.

Third, this final rule amends ECCNs 9B115 and 9B116 by removing from the headings of these ECCNs all references to the CCL Category 9 placeholder ECCNs that describe only items subject to the export licensing authority of DDTC. These placeholder references are replaced by references to the appropriate USML Category IV controls, as described in a rule by the U.S. Department of State, Directorate of Defense Trade Controls, that is being published in conjunction with this final rule. This final rule amends the headings of ECCNs 9B115 and 9B116 by adding references to specific USML categories, because these ECCNs control ''specially designed'' ''production equipment'' and ''specially designed'' ''production facilities,'' respectively, for certain USML Category IV defense articles, as well as certain CCL Category 9 commodities.

These conforming changes and clarifications also eliminate perceived discrepancies in the current text of certain CCL Category 9 ''software'' and ''technology'' ECCNs. For example, the heading of ECCN 9E102 included ''technology'' for the ''use'' of space launch vehicles described in ECCN 9A004, while the Related Controls paragraph of ECCN 9E102 indicated that such ''technology'' was subject to the export licensing jurisdiction of DDTC. This final rule amends the heading of ECCN 9E102 to include ''technology'' for commodities described in ECCN 9A004 (except for items that are subject to the ITAR, *see* 22 CFR part 121) and also amends the Related Controls paragraph in ECCN 9E102 to indicate that ''technology'' for ECCN 9A004 (except for items that are subject to the EAR) is subject to the export licensing jurisdiction of DDTC.

This final rule also corrects an error in the heading of ECCN 9E101, which indicated that this ECCN controlled ''development,'' ''production,'' and ''use'' ''technology. In fact, such ''use'' ''technology'' is controlled under ECCN 9E102. Therefore, this rule amends the heading of ECCN 9E101 to remove the reference to ''use'' ''technology.'' Furthermore, this final rule amends the MT controls paragraphs in ECCNs 9E001 and 9E002 to indicate that, in addition to the items previously identified in these paragraphs, MT controls also apply to ''technology'' for equipment controlled by 9B115. However, the MT controls paragraph in 9E002 no longer references 9B117, because ''production'' ''technology'' for 9B117 is not controlled under ECCN 9E002, as indicated in the ECCN heading.

This rule also revises the Related Controls paragraphs in ECCNs 1A007 and 3A232 to reflect the addition of new ''600 series'' ECCN 0A604, as described above. Consistent with the previous changes, this rule also adds a cross

reference to ECCN 3A232 in the Related Controls paragraph for ECCN 1A007.

Changes to the EAR amendments proposed in the January 31 (launch vehicles) rule

*Test, Inspection, and Other Production ''Equipment'' Controlled Under New ECCN 0B604.a*

As noted in the response to comments on ECCN 0B604 (see above), ECCN 0B604.a now states that it controls test, inspection, and other production ''equipment'' that is ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 0A604 or the bombs, torpedoes, depth charges, mines and hand grenades, and parts, components, accessories and attachments therefor, controlled under USML Category IV.

*Changes To Make New ECCN 9B604 Consistent With the CCL Order of Review*

Supplement No. 4 to part 774, which became effective on October 15, 2013, gives ''600 series'' ECCNs precedence over non-''600 series'' ECCNs when classifying an item. Accordingly, the controls in ECCN 9B604 in this final rule differ from the controls proposed in the January 31 (launch vehicles) rule in that they do not limit the scope of the test, inspection, and other production ''equipment'' controlled by ECCN 9B604.c to ''equipment'' that is not controlled elsewhere on the CCL (except with respect to ''equipment'' specified in ECCN 0B604.a or elsewhere in 9B604, *i.e.,* 9B604.a, .b, or .d). This means that if an item subject to the EAR is described by a ''600 series'' ECCN (*e.g.,* ECCN 9B604), then the item would be controlled under the ''600 series'' ECCN even if it were also described elsewhere on the CCL under a non-''600 series'' ECCN.

**Export Administration Act**

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

**Rulemaking Requirements**

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This final rule would affect the following approved information collections: Simplified Network Application Processing System (control number 0694–0088), which includes, among other things, license applications; license exceptions (0694–0137); voluntary self-disclosure of violations (0694–0058); recordkeeping (0694–0096); export clearance (0694–0122); and the Automated Export System (0607–0152).

As stated in the July 15 (framework) rule, BIS believed that the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's ECR Initiative would increase the number of license applications to be submitted to BIS by approximately 16,000 annually. As the review of the USML progressed, the interagency group gained more specific information about the number of items that would come under BIS jurisdiction. As of the June 21 (transition) rule, BIS estimated the increase in license applications to be 30,000 annually, resulting in an increase in burden hours of 8,500 (30,000 transactions at 17 minutes each) under control number 0694–0088. BIS continues to review its estimate of this level of increase as more information becomes available. As described below, the *net* burden US export controls impose on US exporters will go down as a result of the transfer of less sensitive military items to the jurisdiction of the CCL and the application of the license exceptions and other provisions set forth in this rule.

Some items formerly on the USML will become eligible for License Exception STA under this rule. Other such items may become eligible for License Exception STA upon approval of an eligibility request. BIS believes that the increased use of License Exception STA resulting from the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 14,758 hours (12,650 transactions at 1 hour and 10 minutes each). BIS expects that this increase in burden would be more than offset by a reduction in burden hours associated with approved collections related to the ITAR.

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

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulations, Department of Commerce, certified to the Chief Counsel for Advocacy that the four proposed rules on which this rule is based would not have a significant impact on a substantial number of small entities. The rationales for those certifications were stated in the preambles to the proposed rules (*see* 77 FR 25932, 25938, May 2, 2012; 77 FR 33688, 33693, June 7, 2012; 77 FR 35310, 35313, June 13, 2012 and 78 FR 6750, 6756, January 31, 2013). BIS received no comments on those rationales and makes no changes to them for this final rule. Therefore, they are not repeated here. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

**List of Subjects**

*15 CFR Part 740*

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

*15 CFR Part 774*

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

## PART 740—[AMENDED]

■ 1. The authority citation for part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 2. In § 740.2:
■ a. Revise paragraph (a)(12);
■ b. Remove the word ''and'' from paragraph (a)(13)(v);
■ c. Redesignate paragraph (a)(13)(vi) as paragraph (a)(13)(vii); and
■ d. Add a new paragraph (a)(13)(vi).

The revision and addition read as follows:

### § 740.2 Restrictions on all License Exceptions.

(a) * * *

(12) The item is described in a ''600 series'' ECCN and is destined to, shipped from, or was manufactured in a destination listed in Country Group D:5 (see Supplement No.1 to part 740 of the EAR), except that:

(i) ''600 series'' items destined to, or in, Country Group D:5 are eligible for License Exception GOV (§ 740.11(b)(2) of the EAR); and

(ii) 1A613.c or .d items destined to, or in, Country Group D:5 are eligible for License Exception TMP (§ 740.9(a)(11) of the EAR) or License Exception BAG (§ 740.14(h)(2) of the EAR).

(13) * * *

(vi) License Exception BAG (§ 740.14); and

* * * * *

■ 3. Section 740.9 is amended by adding paragraph (a)(11) and revising the first sentence of paragraph (a)(14) introductory text to read as follows:

### § 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP).

* * * * *

(a) * * *

(11) *Personal protective equipment classified under ECCN 1A613.c or .d.* (i) Temporary exports, reexports, or in-country transfers to countries not identified in Country Group D:5. U.S. persons may temporarily export or reexport one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under 1A613.c, to countries not identified in Country Group D:5, provided that:

(A) The items are with the U.S. person's baggage or effects, whether accompanied or unaccompanied (but not mailed); and

(B) The items are for that U.S. person's exclusive use and not for transfer of ownership unless reexported or transferred (in-country) to another U.S. person.

(ii) Temporary exports, reexports, or transfers (in-country) to countries identified in Country Group D:5.

(A) *Afghanistan.* U.S. persons may temporarily export or reexport one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under ECCN 1A613.c, to Afghanistan for personal use provided that the requirements in paragraph (a)(11)(i) of this section are met.

(B) *Iraq.* U.S. persons may temporarily export or reexport one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under ECCN 1A613.c, to Iraq for personal use provided that the requirements in paragraph (a)(11)(i) of this section are met. In addition, the U.S. person must be affiliated with the U.S. Government and traveling on official business or traveling in support of a U.S. Government contract, or the U.S. person must be traveling to Iraq under a direct authorization by the Government of Iraq and engaging in activities for, on behalf of, or at the request of, the Government of Iraq. Documentation regarding direct authorization from the Government of Iraq shall include an English translation.

(C) *Other countries in Country Group D:5.* U.S. persons may temporarily export or reexport one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under ECCN 1A613.c, provided that the requirements in paragraph (a)(11)(i) of this section are met, and the U.S. person is affiliated with the U.S. Government traveling on official business or is traveling in support of a U.S. Government contract.

(iii) Items exported, reexported, or transferred (in-country) under paragraph (a)(11) of this section, if not consumed or destroyed in the normal course of authorized temporary use abroad, must be returned to the United States or other country from which the items were so transferred as soon as practicable but no later than four years after the date of export, reexport or transfer (in-country).

* * * * *

(14) * * * With the exception of items described in paragraph (a)(11) of this section, all items exported, reexported, or transferred (in-country) under this section must, if not consumed or destroyed in the normal course of authorized temporary use abroad, be returned to the United States or other country from which the items were so transferred as soon as practicable but no later than one year after the date of export, reexport, or transfer (in-country). * * *

* * * * *

■ 4. Section 740.14 is amended by adding paragraph (h) to read as follows:

### § 740.14 Baggage (BAG).

* * * * *

(h) *Special provisions: personal protective equipment classified under ECCN 1A613.c or .d.* (1) *Exports, reexports, or in-country transfers to countries not identified in Country Group D:5.* U.S. persons may export, reexport, or transfer (in-country) one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under or ECCN 1A613.c, to countries not identified in Country Group D:5, provided that:

(i) The items are with the U.S. person's baggage or effects, whether accompanied or unaccompanied (but not mailed); and

(ii) The items are for that person's exclusive use and not for transfer of ownership unless reexported or transferred (in-country) to another U.S. person.

(2) *Exports, reexports, or in-country transfers to countries identified in Country Group D:5.* (i) *Afghanistan.* U.S. persons may export, reexport, or transfer (in-country) one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under ECCN 1A613.c, to Afghanistan for personal use provided that the requirements in paragraph (h)(1) of this section are met.

(ii) *Iraq.* U.S. persons may export, reexport, or transfer (in-country) one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under ECCN 1A613.c, to Iraq for personal use provided that the requirements in paragraph (h)(1) of this section are met. In addition, the U.S. person must be affiliated with the U.S. Government and traveling on official business or traveling in support of a U.S. Government contract, or the U.S. person must be traveling to Iraq under a direct authorization by the

Government of Iraq and engaging in activities for, on behalf of, or at the request of, the Government of Iraq. Documentation regarding direct authorization from the Government of Iraq shall include an English translation.

(iii) *Other countries in Country Group D:5.* U.S. persons may export, reexport, or transfer (in-country) one set of body armor classified under ECCN 1A613.d, which may include one helmet classified under ECCN 1A613.c, provided that the requirements in paragraph (h)(1) of this section are met, and the U.S. person is affiliated with the U.S. Government traveling on official business or is traveling in support of a U.S. Government contract.

**Note to paragraph (h):** Body armor controlled under ECCN 1A005 is eligible for this License Exception under paragraph (b) of this section.

## PART 774—[AMENDED]

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

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

■ 6. In Supplement No. 1 to part 774, Category 0, Export Control Classification Number 0A018 is amended by:

■ a. Revising the ''Related Controls'' paragraph in the List of Items Controlled section to read as follows;

■ b. Removing and reserving ''Items'' paragraph .d in the List of Items Controlled section; and

■ c. Removing the ''Note'' to ''Items'' paragraph .d in the List of Items Controlled section.

The revision reads as follows:

### Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0A018 Items on the Wassenaar Munitions List (see List of Items Controlled).**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See also 0A979, 0A988, and 22 CFR 121.1 Categories I(a), III(b–d), and X(a). (2) See ECCN 0A617.y.1 and .y.2 for items formerly controlled by ECCN 0A018.a. (3) See ECCN 1A613.c for military helmets providing less than NIJ Type IV protection and ECCN 1A613.y.1 for conventional military steel helmets that, immediately prior to July 1, 2014, were classified under 0A018.d and 0A988. (4) See 22 CFR 121.1 Category X(a)(5) and (a)(6) for controls on other military helmets.

* * * * *

■ 7. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0A604 between ECCNs 0A521 and 0A606 to read as follows:

### Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0A604 Commodities Related to Military Explosive Devices and Charges (see List of Items Controlled).**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country Chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*LVS:* N/A
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 0A604.

**List of Items Controlled**

*Related Controls:* (1) Torpedoes, bombs, and mines are subject to the ITAR (see 22 CFR § 121.1, USML Category IV). (2) Smoke bombs, non-irritant smoke flares, canisters, grenades and charges, and other pyrotechnical articles having both military and commercial applications are controlled by ECCN 1A984. (3) Certain explosive detonator firing sets, electrically driven explosive detonators, and detonators and multipoint initiation systems are controlled by ECCN 1A007 or ECCN 3A232. (4) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of U.S.-origin ''600 series'' controlled content.

*Related Definitions:* N/A

*Items:*

a. Demolition blocks, and detonators designed, modified, or adapted therefor.

b. Military explosive excavating devices.

**Note to 0A604.a and .b:** This entry does not control the detonators and other items described in ECCN 1A007 or ECCN 3A232.

c. Smoke hand grenades and stun hand grenades (*e.g.,* ''flashbangs'') not controlled by ECCN 1A984.

d. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity subject to control in paragraphs .a through .c of this ECCN, or for a defense article controlled under USML Category IV, and not specified elsewhere on the USML.

**Note 1 to 0A604.x:** *Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 0A604.x, are controlled by ECCN 0A604.x.*

**Note 2 to 0A604.x:** *''Parts,'' ''components,'' ''accessories,'' and ''attachments'' specified in USML Category IV(h) are subject to the controls of that paragraph.*

* * * * *

■ 8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0A614 between ECCNs 0A606 and 0A617 to read as follows:

### Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0A614 Military Training ''Equipment,'' as Follows (see List of Items Controlled).**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country Chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*LVS:* $1500
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 0A614.

**List of Items Controlled**

*Related Controls:* (1) Defense articles that are enumerated or otherwise described in USML Category IX and ''technical data'' (including ''software'') directly related thereto are subject to the ITAR. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* of US-origin ''600 series'' items. (3) ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are common to a simulator controlled by ECCN 0A614.a and to a simulated system or an

end item that is controlled on the USML or elsewhere on the CCL are controlled under the same USML Category or ECCN as the ''parts,'' ''components,'' ''accessories'' and ''attachments'' of the simulated system or end item.

*Related Definitions:* N/A

*Items:*

a. ''Equipment'' ''specially designed'' for military training that is not enumerated or otherwise described in USML Category IX.

**Note 1 to 0A614:** *This entry includes operational flight trainers, radar target trainers, flight simulators for aircraft classified under ECCN 9A610.a, human-rated centrifuges, instrument flight trainers for military aircraft, navigation trainers for military items, target equipment, armament trainers, military pilotless aircraft trainers, mobile training units and training ''equipment'' for ground military operations.*

**Note 2 to 0A614:** *This entry does not apply to ''equipment'' ''specially designed'' for training in the use of hunting or sporting weapons.*

b. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories'' ''attachments'' that are ''specially designed'' for a commodity controlled by this entry or an article enumerated or otherwise described in USML Category IX, and not specified elsewhere on the USML.

**Note 3 to 0A614:** Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 0A614.x are controlled by ECCN 0A614.x.

* * * * *

■ 9. In Supplement No. 1 to part 774, Category 0, Export Control Classification Number 0A988 is revised to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0A988 Conventional Military Steel Helmets as Described by 0A018.d.1.**

No items currently are in this ECCN. See ECCN 1A613.y.1 for conventional steel helmets that, immediately prior to July 1, 2014, were classified under 0A988.

■ 10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0B604 between ECCNs 0B521 and 0B606 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0B604 Test, Inspection, and Production ''Equipment'' and Related Commodities ''Specially Designed'' for the ''Development,'' ''Production,'' Repair, Overhaul, or Refurbishing of Commodities in ECCN 0A604 or Related Defense Articles in USML Category IV (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country Chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*LVS:* $1500
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 0B604.

**List of Items Controlled**

*Related Controls:* (1) See ECCN 9B604, which controls test, inspection, and production ''equipment'' and related commodities ''specially designed'' for the ''development'' or ''production'' of commodities in ECCN 9A604 or related defense articles in USML Category IV. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

*Related Definitions:* N/A

*Items:*

a. Test, inspection, and other production ''equipment'' ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities controlled by ECCN 0A604 or for bombs, torpedoes, depth charges, mines and hand grenades, and parts, components, accessories and attachments therefor, controlled under USML Category IV.

b. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity subject to control in paragraph .a of this ECCN.

■ 11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0B614 between ECCNs 0B606 and 0B617 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0B614 Test, Inspection, and Production ''Equipment'' for Military Training ''Equipment'' and ''Specially Designed'' ''Parts,'' ''Components,'' ''Accessories'' and ''Attachments'' Therefor, as Follows (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country Chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*LVS:* $1500
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 0B614.

**List of Items Controlled**

*Related Controls:* See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

*Related Definitions:* N/A

*Items:*

a. Test, inspection, and other production ''equipment'' ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities controlled by ECCN 0A614 or articles enumerated or otherwise described in USML Category IX.

b. through .w [Reserved]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 0B614.

■ 12. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], ECCN 0D001 is amended by revising the heading of the ECCN to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0D001 ''Software'' specially designed or modified for the ''development,'' ''production,'' or ''use'' of items described in ECCN 0A001 or 0A002, 0B (except for ECCNs 0B604, 0B606, 0B614, 0B617, 0B986 and 0B999), or 0C (except for ECCN 0C606 and 0C617)**

* * * * *

■ 13. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0D604 between ECCNs 0D521 and 0D606 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0D604 "Software" "specially designed" for the "development," "production," operation, or maintenance of commodities controlled by ECCN 0A604 or 0B604**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 0D604.

**List of Items Controlled**

*Related Controls:* (1) "Software" directly related to articles enumerated in USML Category IV is controlled under USML Category IV(i). (2) See ECCN 0A919 for foreign-made "military commodities" that incorporate more than a *de minimis* amount of U.S.-origin "600 series" controlled content.
*Related Definitions:* N/A
*Items:*

a. "Software" "specially designed" for the "development," "production," operation, or maintenance of commodities controlled by ECCN 0A604 or 0B604.

b. [Reserved]

* * * * *

■ 14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0D614 between ECCNs 0D606 and 0D617 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0D614 "Software" related to military training "equipment," as follows (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any "software" in 0D614.

**List of Items Controlled**

*Related Controls:* (1) "Software" directly related to articles enumerated in USML Category IX is subject to the control of USML paragraph IX(e). (2) See ECCN 0A919 for foreign made "military commodities" that incorporate more than a *de minimis* amount of US-origin "600 series" items.
*Related Definitions:* N/A
*Items:*

a. "Software" "specially designed" for the "development," "production," operation, or maintenance of commodities controlled by ECCNs 0A614 or 0B614.

b. [Reserved]

* * * * *

■ 15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], ECCN 0E001 is amended by revising the heading of the ECCN to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0E001 "Technology," according to the Nuclear Technology Note, for the "development", "production", or "use" of items described in ECCN 0A001 or 0A002, 0B (except for ECCNs 0B604, 0B606, 0B614, 0B617, 0B986, and 0B999), 0C (except for ECCN 0C606 and 0C617), or ECCN 0D001**

* * * * *

■ 16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0E604 between ECCNs 0E521 and 0E606 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0E604 "Technology" "required" for the "development," "production," operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 0A604 or 0B604, or "software" controlled by ECCN 0D604**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a description of All License Exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 0E604.

**List of Items Controlled**

*Related Controls:* Technical data directly related to articles enumerated in USML Category IV are controlled under USML Category IV(i).
*Related Definitions:* N/A
*Items:*

a. "Technology" "required" for the "development," "production," operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 0A604 or 0B604, or "software" controlled by ECCN 0D604.

b. [Reserved]

* * * * *

■ 17. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add ECCN 0E614 between ECCNs 0E606 and 0E617 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**0E614 "Technology," as follows (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a description of all license exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any technology in 0E614.

**List of Items Controlled**

*Related Controls:* ''Technical data'' directly related to articles enumerated in USML Category IX is subject to the control of USML paragraph IX(e).

*Related Definitions:* N/A

Items:

a. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair overhaul, or refurbishing of commodities or ''software'' controlled by ECCNs 0A614, 0B614, or 0D614.

b. [Reserved]

* * * * *

■ 18. In Supplement No. 1 to part 774, Category 1, ECCN 1A005 is amended by:

■ a. Adding a License Requirements Notes paragraph at the end of the License Requirements section;

■ b. Revising the Related Controls paragraph; and

■ c. Revising paragraphs a. and b. in the Items paragraph of the List of Items Controlled section.

The addition and revisions read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1A005 Body armor and components therefor, as follows (see List of Items Controlled)**

**License Requirements**

Reasons for Control

* * * * *

*License Requirements Notes:* 1. Soft body armor not manufactured to military standards or specifications must provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008) to be controlled under 1A005.a. 2. For purposes of 1A005.a, military standards and specifications include, at a minimum, specifications for fragmentation protection.

* * * * *

**List of Items Controlled**

*Related Controls:* (1) Bulletproof and bullet resistant vests (body armor) providing NIJ Type IV protection or greater are subject to the ITAR (see 22 CFR 121.1 Category X(a)). (2) Soft body armor and protective garments manufactured to military standards or specifications that provide protection equal to NIJ level III or less are classified under ECCN 1A613.d.1. (3) Hard armor plates providing NIJ level III ballistic protection are classified under ECCN 1A613.d.2. (4) Police helmets and shields are classified under ECCN 0A979. (5) Other personal protective ''equipment'' ''specially designed'' for military applications not controlled by the USML or elsewhere in the CCL is classified under ECCN 1A613.e. (6) For ''fibrous or filamentary materials'' used in the manufacture of body armor, see ECCN 1C010.

* * * * *

Items:

a. Soft body armor not manufactured to military standards or specifications, or to their equivalents, and ''specially designed'' ''components'' therefor.

b. Hard body armor plates that provide ballistic protection less than NIJ level III (NIJ 0101.06, July 2008) or national equivalents.

* * * * *

■ 19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1A007 is amended by revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1A007 Equipment and devices, specially designed to initiate charges and devices containing energetic materials, by electrical means, as follows (see List of Items Controlled)**

* * * * *

**List of Items Controlled**

*Related Controls:* High explosives and related equipment specially designed for military use are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). This entry does not control detonators using only primary explosives, such as lead azide. See also ECCNs 0A604, 3A229, and 3A232. See 1E001 for ''development'' and ''production'' technology controls, and 1E201 for ''use'' technology controls.

* * * * *

■ 20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1A008 is amended by revising the second related control in the Related Controls paragraph of the List of Items Controlled section to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1A008 Charges, devices and components, as follows (see List of Items Controlled)**

* * * * *

**List of Items Controlled**

*Related Controls:* * * *

(2) See also ECCNs 1C011, 1C018, 1C111, 1C239, and 1C608 for additional controlled energetic materials. See ECCN 1E001 for the ''development'' or ''production'' ''technology'' for the commodities controlled by ECCN 1A008, but not for explosives or commodities that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130).

* * * * *

■ 21. In Supplement No. 1 to part 774, Category 1, add a ECCN 1A613 between ECCNs 1A290 and 1A984 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1A613 Armored and protective ''equipment'' and related commodities, as follows**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart* (See Supp. No. 1 to part 738) |
|---|---|
| NS applies to entire entry except 1A613.y. | NS Column 1 |
| RS applies to entire entry except 1A613.y. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry, except 1A613.y. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a description of all license exceptions)**

*LVS:* $1500

*GBS:* N/A

*CIV:* N/A

**Special Conditions for STA**

*STA:* (1) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1A613.

**List of Items Controlled**

*Related Controls:* (1) Defense articles, such as materials made from classified information, that are controlled by USML Category X or XIII of the ITAR, and technical data (including software) directly related thereto, are subject to the ITAR. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

*Related Definitions:* References to ''NIJ Type'' protection are to the National Institute of Justice Classification guide at NIJ Standard 0101.06, Ballistic Resistance of Body Armor, and NIJ Standard 0108.01, Ballistic Resistant Protective Materials.

*Items:*

a. Armored plate ''specially designed'' for military use and not controlled by the USML.

**Note to paragraph a:** For controls on body armor plates, see ECCN 1A613.d.2 and USML Category X(a)(1).

b. Shelters ''specially designed'' to:

b.1. Provide ballistic protection for military systems, or

b.2. Protect against nuclear, biological, or chemical contamination.

c. Military helmets (other than helmets controlled under 1A613.y.1) and helmet

shells providing less than NIJ Type IV protection.

**Note 1 to paragraph c:** See ECCN 0A979 for controls on police helmets.

**Note 2 to paragraph c:** See USML Category X(a)(5) and (a)(6) for controls on other military helmets.

d. Body armor and protective garments, as follows:

d.1. Soft body armor and protective garments manufactured to military standards or specifications, or to their equivalents, that provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008); or

**Note:** For 1A613.d.1, military standards or specifications include, at a minimum, specifications for fragmentation protection.

d.2. Hard body armor plates that provide ballistic protection equal to NIJ level III (NIJ 0101.06, July 2008) or national equivalents.

**Note:** See ECCN 1A005 for controls on soft body armor not manufactured to military standards or specifications and hard body armor plates providing less than NIJ level III protection. For body armor providing NIJ Type IV protection or greater, see USML Category X(a)(1).

e. Other personal protective ''equipment'' ''specially designed'' for military applications not controlled by the USML.

f. to w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 1A613 (except for 1A613.y) or an article enumerated in USML Category X, and not controlled elsewhere in the USML.

**Note:** Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 1A613.x are controlled by ECCN 1A613.x.

y. Other commodities as follows:

y.1 Conventional military steel helmets.

y.2 [Reserved]

* * * * *

■ 22. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1B018 is amended in the List of Items Controlled section by revising the ''Related Controls'' paragraph and by removing and reserving paragraph a.

The revision reads as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1B018 Items on the Wassenaar Arrangement Munitions List (see List of Items controlled)**

* * * * *

**List of Items Controlled**

*Related Controls:* See ECCN 1B608.a, .b, and .x for items that, immediately prior to July 1, 2014, were classified under 1B018.a.

* * * * *

■ 23. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add ECCNs 1B608 and 1B613 between ECCNs 1B233 and 1B999 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1B608 Test, inspection, and production ''equipment'' and related commodities ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities enumerated in ECCN 1C608 or USML Category V (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to equipment ''specially designed'' for MT-controlled commodities in ECCN 1C608 or MT articles in USML Category V. | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a description of all license exceptions)**

*LVS:* $1500
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1B608.

**List of Items Controlled**

*Related Controls:* (1) Defense articles that are enumerated in USML Category V, and technical data (including software) directly related thereto, are subject to the ITAR. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content. (3) See ECCN 1B115 for controls on ''production equipment,'' not controlled by this ECCN 1B608, for propellants or propellant constituents described in ECCN 1C011.a, 1C011.b, or 1C111 or in USML Category V.

*Related Definitions:* N/A

*Items:*

a. ''Equipment'' ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of items controlled by ECCN 1C608 or USML Category V and not elsewhere specified on the USML.

**Note to paragraph a:** ECCN 1B608.a. includes: (1) Continuous nitrators; (2) dehydration presses;

(3) cutting machines for the sizing of extruded propellants; (4) sweetie barrels (tumblers) 6 feet or more in diameter and having over 500 pounds product capacity; (5) convection current converters for the conversion of materials listed in USML Category V(c)(2); and (6) extrusion presses for the extrusion of small arms, cannon and rocket propellants.

b. Complete installations ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of items controlled by ECCN 1C608 or USML Category V and not elsewhere specified on the USML.

c. Environmental test facilities ''specially designed'' for the certification, qualification, or testing of items controlled by ECCN 1C608 or USML Category V.

d. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity subject to control in this ECCN or a defense article in USML Category V and not elsewhere specified on the USML.

**1B613 Test, inspection, and ''production'' ''equipment'' and related commodities ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities controlled by ECCN 1A613 or USML Category X, as follows (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a description of all license exceptions)**

*LVS:* $1500
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1B613.

**List of Items Controlled**

*Related Controls:* See ECCN 0A919 for foreign-made ''military commodities'' that

incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

*Related Definitions:* N/A

*Items:*

a. Test, inspection, and ''production'' ''equipment,'' not controlled by USML Category X(c), that is ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities controlled by ECCN 1A613 or USML Category X.

b. Plasma pressure compaction (P2C) ''equipment'' ''specially designed'' for the ''production'' of ceramic or composite body armor plates controlled by ECCN 1A613 or USML Category X.

* * * * *

■ 24. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1C011 is amended by revising paragraph (1) in the Related Controls paragraph in the List of Items Controlled section to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1C011 Metals and compounds, other than those specified in 1C111, as follows (see List of Items Controlled)**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See also ECCNs 1C111 and 1C608. * * *.

* * * * *

■ 25. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1C018 is revised to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1C018 Commercial charges and devices containing energetic materials on the Wassenaar Arrangement Munitions List and certain chemicals**

No items currently are in this ECCN. (1) See ECCN 1C608.b. through .m for items that, immediately prior to July 1, 2014 were classified under 1C018.b through .m. (2) See ECCNs 1C011, 1C111, and 1C239 for additional controlled energetic materials, including chlorine trifluoride ($ClF_3$), which is controlled under ECCN 1C111.a.3.f. (3) See ECCN 1A008 for shaped charges, detonating cord, and cutters and severing tools.

* * * * *

■ 26. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' revise ECCN 1C111 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1C111 Propellants and constituent chemicals for propellants, other than those specified in 1C011, as follows (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* MT, NP, RS, AT

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| MT applies to entire entry except 1C111.d.3. | MT Column 1 |
| NP applies to 1C111.a.3.f only. | NP Column 1 |
| RS applies to 1C111.d.3 only. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |

**List Based License Exceptions (See Part 740 for a description of all license exceptions)**

*LVS:* N/A
*GBS:* N/A
*CIV:* N/A

**List of Items Controlled**

*Related Controls:* (1) See USML Category V(e)(7) for controls on HTPB (hydroxyl terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30 °C of less than 47 poise (CAS # 69102–90–5). (2) See USML Category V(f)(3) for controls on ferrocene derivatives, including butacene. (3) See ECCN 1C608 for controls on oxidizers that are composed of fluorine and also other halogens, oxygen, or nitrogen, except for chlorine trifluoride, which is controlled under this ECCN 1C111.a.3.f. (4) See ECCN 1C011.b for controls on boron and boron alloys not controlled under this ECCN 1C111.a.2.b. (5) See USML Category V(d)(10) for controls on Inhibited Red Fuming Nitric Acid (IRFNA) (CAS 8007–58–7).

*Related Definitions:* Particle size is the mean particle diameter on a weight or volume basis. Best industrial practices must be used in sampling, and in determining particle size, and the controls may not be undermined by the addition of larger or smaller sized material to shift the mean diameter.

Items:

a. Propulsive substances:

a.1. Spherical or spheroidal aluminum powder (C.A.S. 7429–90–5) in particle size of less than $200 \times 10^{-6}$ m (200 μm) and an aluminum content of 97% by weight or more, if at least 10 percent of the total weight is made up of particles of less than 63 μm, according to ISO 2591:1988 or national equivalents.

**Technical Note:** A particle size of 63 μm (ISO R–565) corresponds to 250 mesh (Tyler) or 230 mesh (ASTM standard E–11).

a.2. Metal powders and alloys where at least 90% of the total particles by particle volume or weight are made up of particles of less than 60 μ (determined by measurement techniques such as using a sieve, laser diffraction or optical scanning), whether spherical, atomized, spheroidal, flaked or ground, as follows:

a.2.a. Consisting of 97% by weight or more of any of the following:

a.2.a.1. Zirconium (C.A.S. # 7440–67–7);

a.2.a.2. Beryllium (C.A.S. # 7440–41–7); or

a.2.a.3. Magnesium (C.A.S. # 7439–95–4);.

a.2.b. Boron or boron alloys with a boron content of 85% or more by weight.

**Technical Note:** The natural content of hafnium in the zirconium (typically 2% to 7%) is counted with the zirconium.

**Note:** In a multimodal particle distribution (*e.g.,* mixtures of different grain sizes) in which one or more modes are controlled, the entire powder mixture is controlled.

a.3. Oxidizer substances usable in liquid propellant rocket engines, as follows:

a.3.a. Dinitrogen trioxide (CAS 10544–73–7);

a.3.b. Nitrogen dioxide (CAS 10102–44–0)/dinitrogen tetroxide (CAS 10544–72–6);

a.3.c. Dinitrogen pentoxide (CAS 10102–03–1);

a.3.d. Mixed oxides of nitrogen (MON);

a.3.e. [Reserved];

a.3.f. Chlorine trifluoride ($ClF_3$).

**Technical Note:** Mixed oxides of nitrogen (MON) are solutions of nitric oxide (NO) in dinitrogen tetroxide/nitrogen dioxide ($N_2O_4$/$NO_2$) that can be used in missile systems. There are a range of compositions that can be denoted as MONi or MONij, where i and j are integers representing the percentage of nitric oxide in the mixture (*e.g.,* MON3 contains 3% nitric oxide, MON25 25% nitric oxide. An upper limit is MON40, 40% by weight).

b. Polymeric substances:

b.1. Carboxy-terminated polybutadiene (including carboxyl-terminated polybutadiene) (CTPB);

b.2. Hydroxy-terminated polybutadiene (including hydroxyl-terminated polybutadiene) (HTPB), except for hydroxyl-terminated polybutadiene as specified in USML Category V (see 22 CFR 121.1) (also see Related Controls Note #1 for this ECCN);

b.3. Polybutadiene acrylic acid (PBAA);

b.4. Polybutadiene acrylic acid acrylonitrile (PBAN);

b.5. Polytetrahydrofuran polyethylene glycol (TPEG).

**Technical Note:** *Polytetrahydrofuran polyethylene glycol (TPEG) is a block copolymer of poly 1,4 Butanediol and polyethylene glycol (PEG).*

c. Other propellant energetic materials, additives, or agents:

c.1. [Reserved]

c.2. Triethylene glycol dinitrate (TEGDN);

c.3. 2 Nitrodiphenylamine (2–NDPA);

c.4. Trimethylolethane trinitrate (TMETN);

c.5. Diethylene glycol dinitrate (DEGDN).

d. Hydrazine and derivatives as follows:

d.1. Hydrazine (C.A.S. # 302–01–2) in concentrations of 70% or more;

d.2. Monomethyl hydrazine (MMH) (C.A.S. # 60–34–4);

d.3. Symmetrical dimethyl hydrazine (SDMH) (C.A.S. # 540–73–8);

d.4. Unsymmetrical dimethyl hydrazine (UDMH) (C.A.S. # 57–14–7);
d.5. Trimethylhydrazine (C.A.S. # 1741–01–1);
d.6. Tetramethylhydrazine (C.A.S. # 6415–12–9);
d.7. N,N diallylhydrazine;
d.8. Allylhydrazine (C.A.S. # 7422–78–8);
d.9. Ethylene dihydrazine;
d.10. Monomethylhydrazine dinitrate;
d.11. Unsymmetrical dimethylhydrazine nitrate;
d.12. Dimethylhydrazinium azide;
d.13. Hydrazinium azide (C.A.S. # 14546–44–2);
d.14. Hydrazinium dinitrate;
d.15. Diimido oxalic acid dihydrazine (C.A.S. # 3457–37–2);
d.16. 2-hydroxyethylhydrazine nitrate (HEHN);
d.17. Hydrazinium diperchlorate (C.A.S. # 13812–39–0);
d.18. Methylhydrazine nitrate (MHN);
d.19. Diethylhydrazine nitrate (DEHN);
d.20. 3,6-dihydrazino tetrazine nitrate (DHTN), also referred to as 1,4-dihydrazine nitrate.

* * * * *

## Supplement No. 1 to Part 774—[Amended]

■ 27. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1C238 is removed.

■ 28. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1C239 is amended by revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1C239 High Explosives, Other Than Those Controlled by the U.S. Munitions List, or Substances or Mixtures Containing More Than 2% by Weight Thereof, With a Crystal Density Greater Than 1.8 g/cm³ and Having a Detonation Velocity Greater than 8,000 m/s**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See ECCNs 1E001 (''development'' and ''production'') and 1E201 (''use'') for technology for items controlled by this entry. (2) See ECCNs 1C608 (energetic materials and related commodities on the Wassenaar Arrangement Munitions List) and 1C992 (commercial charges and devices containing energetic materials, n.e.s and nitrogen trifluoride in a gaseous state). (3) High explosives for military use are subject to the ITAR (see 22 CFR Part 121.1).

* * * * *

■ 29. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add ECCN 1C608 between ECCNs 1C395 and 1C980 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1C608 Energetic Materials and Related Commodities (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to 1C608.m. | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (see Part 740 for a Description of all License Exceptions)**

*LVS:* $1500
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1C608.

**List of Items Controlled**

*Related Controls:* (1) The EAR does not control devices or charges containing materials controlled by USML subparagraphs V(c)(6), V(h), or V(i). The USML controls devices containing such materials. (2) The USML in Categories III, IV, or V controls devices and charges in this entry if they contain materials controlled by Category V (other than slurries) and such materials can be easily extracted without destroying the device or charge. (3) See also explosives and other items enumerated in ECCNs 1A006, 1A007, 1A008, 1C011, 1C111, 1C239, and 1C992. (4) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

*Related Definitions:* For purposes of this entry, the term ''controlled materials'' means controlled energetic materials enumerated in ECCNs 1C011, 1C111, 1C239, 1C608, or USML Category V.

*Items:*

a. Single base, double base, and triple base propellants having nitrocellulose with nitrogen content greater than 12.6% in the form of either:
a.1. Sheetstock or carpet rolls; or
a.2. Grains with diameter greater than 0.10 inches.

**Note:** *This entry does not control propellant grains used in shotgun shells, small arms cartridges, or rifle cartridges.*

**Note:** *Sheetstock is propellant that has been manufactured in the form of a sheet suitable for further processing. A carpet roll is propellant that has been manufactured as a sheet, often cut to a desired width, and subsequently rolled up (like a carpet).*

**Note:** *Single base is propellant which consists mostly of nitrocellulose. Double base propellants consist mostly of nitrocellulose and nitroglycerine. Triple base consists mostly of nitrocellulose, nitroglycerine, and nitroguanidine. Such propellants contain other materials, such as resins or stabilizers, that could include carbon, salts, burn rate modifiers, nitrodiphenylamine, wax, polyethylene glycol (PEG), polyglycol adipate (PGA).*

b. Shock tubes containing greater than 0.064 kg per meter (300 grains per foot), but not more than 0.1 kg per meter (470 grains per foot) of controlled materials.
c. Cartridge power devices containing greater than 0.70 kg, but not more than 1.0 kg of controlled materials.
d. Detonators (electric or nonelectric) and ''specially designed'' assemblies therefor containing greater than 0.01 kg, but not more than 0.1 kg of controlled materials.
e. Igniters not controlled by USML Categories III or IV that contain greater than 0.01 kg, but not more than 0.1 kg of controlled materials.
f. Oil well cartridges containing greater than 0.015 kg, but not more than 0.1 kg of controlled materials.
g. Commercial cast or pressed boosters containing greater than 1.0 kg, but not more than 5.0 kg of controlled materials.
h. Commercial prefabricated slurries and emulsions containing greater than 10 kg and less than or equal to thirty-five percent by weight of USML controlled materials.
i. [Reserved]
j. Pyrotechnic devices ''specially designed'' for commercial purposes (*e.g.,* theatrical stages, motion picture special effects, and fireworks displays), and containing greater than 3.0 kg, but not more than 5.0 kg of controlled materials.
k. Other commercial explosive devices or charges ''specially designed'' for commercial applications, not controlled by 1C608.c through .g above, containing greater than 1.0 kg, but not more than 5.0 kg of controlled materials.
l. Propyleneimine (2 methylaziridine) (C.A.S. #75–55–8).
m. Any oxidizer or mixture thereof that is a compound composed of fluorine and one or more of the following: other halogens, oxygen, or nitrogen.

**Note 1 to 1C608.m:** *Nitrogen trifluoride ($NF_3$) in a gaseous state is controlled under ECCN 1C992 and not under ECCN 1C608.m.*

**Note 2 to 1C608.m:** *Chlorine trifluoride ($ClF_3$) is controlled under ECCN 1C111.a.3.f and not under ECCN 1C608.m.*

**Note 3 to 1C608.m:** *Oxygen difluoride ($OF_2$) is controlled under USML Category V.d.10 (see 22 CFR 121.1) and not under ECCN 1C608.m.*

**Note to 1C608.l and m:** *If a chemical in ECCN 1C608.l or .m is incorporated into a commercial charge or device described in ECCN 1C608.c through .k or in ECCN 1C992, the classification of the commercial charge or device applies to the item.*

n. Any explosives, propellants, oxidizers, pyrotechnics, fuels, binders, or additives that are ''specially designed'' for military application and not enumerated or otherwise described in USML Category V or elsewhere on the USML.

* * * * *

■ 30. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1C992 is amended by revising, in the List of Items Controlled section, the Related Controls paragraphs and Related Definitions paragraphs (1) and (2) to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1C992 Commercial charges and devices containing energetic materials, n.e.s., and nitrogen trifluoride in a gaseous state (see List of Items Controlled)**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) Commercial charges and devices containing USML controlled energetic materials that exceed the quantities noted or that are not covered by this entry are controlled under ECCN 1C608. (2) Nitrogen trifluoride when not in a gaseous state is controlled under ECCN 1C608.

*Related Definitions:* (1) Items controlled by this entry ECCN 1C992 are those materials not controlled by ECCN 1C608 and not ''subject to the ITAR'' (see 22 CFR Parts 120 through 130). (2) For purposes of this entry, the term ''controlled materials'' means controlled energetic materials (see ECCNs 1C011, 1C111, 1C239, and 1C608; see also 22 CFR 121.1, Category V). * * *

* * * * *

■ 31. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1D018 is amended by revising the ECCN heading and by revising the ''Related Controls'' paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1D018 ''Software'' specially designed or modified for the ''development,'' ''production,'' or ''use'' of items controlled by 1B018.b**

* * * * *

**List of Items Controlled**

*Related Controls:* See ECCN 1D608 for ''software'' for items classified under ECCN 1B608 that, immediately prior to July 1, 2014, were classified under 1B018.a.

* * * * *

■ 32. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add ECCNs 1D608 and 1D613 between ECCNs 1D390 and 1D993 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1D608 ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 1B608 or 1C608**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to ''software'' ''specially designed'' for the ''use'' of 1B608 equipment in the ''production'' and handling of materials controlled by 1C608.m or MT articles in USML Category V. | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1D608.

**List of Items Controlled**

*Related Controls:* (1) Software directly related to articles enumerated or otherwise described in USML Categories III, IV or V is subject to the controls of those USML Categories, respectively. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of U.S.-origin ''600 series'' items.

*Related Definitions:* N/A
*Items:*

a. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCN 1B608 or 1C608.

b. [Reserved]

**1D613 ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 1A613 or 1B613, as follows (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry except 1D613.y. | NS Column 1 |
| RS applies to entire entry except 1D613.y. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry, except 1D613.y. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 1D613.

**List of Items Controlled**

*Related Controls:* (1) ''Software'' directly related to articles controlled by USML Category X is subject to the control of USML paragraph X(e) of the ITAR. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

*Related Definitions:* N/A
*Items:*

a. ''Software'' (other than ''software'' controlled in paragraph .y of this entry) ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCNs 1A613 (except 1A613.y) or 1B613 (except 1B613.y).

b. to x. [Reserved]

y. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation, or maintenance of commodities controlled by ECCN 1A613.y.

* * * * *

■ 33. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1E001 is amended by revising the ECCN heading, by revising the NP controls paragraph in the License Requirements section, and by revising the ''Related

Controls'' paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of items controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A004, 1A005, 1A006.b, 1A007, 1A008, 1A101, 1B (except 1B608, 1B613, or 1B999), or 1C (except 1C355, 1C608, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C995 to 1C999)**

**License Requirements**

*Reason for Control:* * * *

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NP applies to ''technology'' for items controlled by 1A002, 1A007, 1B001, 1B101, 1B201, 1B225 to 1B233, 1C002, 1C010, 1C111, 1C116, 1C202, 1C210, 1C216, 1C225 to 1C237, 1C239, or 1C240 for NP reasons. | NP Column 1 |

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**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) Also see ECCNs 1E101, 1E201, and 1E202. (2) See ECCN 1E608 for ''technology'' for items classified under ECCN 1B608 or 1C608 that, immediately prior to July 1, 2014, were classified under ECCN 1B018.a or 1C018.b through .m (note that ECCN 1E001 controls ''development'' and ''production'' ''technology'' for chlorine trifluoride controlled by ECCN 1C111.a.3.f—see ECCN 1E101 for controls on ''use'' ''technology'' for chlorine trifluoride). (3) See ECCN 1E002.g for control libraries (parametric technical databases) specially designed or modified to enable equipment to perform the functions of equipment controlled under ECCN 1A004.c (Nuclear, biological and chemical (NBC) detection systems) or ECCN 1A004.d (Equipment for detecting or identifying explosives residues). (4) ''Technology'' for lithium isotope separation (see related ECCN 1B233) and ''technology'' for items described in ECCN 1C012 are subject to the export licensing authority of the Department of Energy (see 10 CFR Part 810). (5) ''Technology'' for items described in ECCN 1A102 is ''subject to the ITAR'' (see 22 CFR Parts 120 through 130).

* * * * *

■ 34. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1E101 is amended by revising the ECCN heading and by revising the License Requirements section to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1E101 ''Technology'', in accordance with the General Technology Note, for the ''use'' of commodities and ''software'' controlled by 1A101, 1A102, 1B001, 1B101, 1B102, 1B115 to 1B119, 1C001, 1C007, 1C011, 1C101, 1C107, 1C111, 1C116, 1C117, 1C118, 1D001, 1D101, or 1D103**

**License Requirements**

*Reason for Control:* MT, NP, AT

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| MT applies to ''technology'' for commodities and software controlled by 1A101, 1A102, 1B001, 1B101, 1B102, 1B115 to 1B119, 1C001, 1C007, 1C011, 1C101, 1C107, 1C111, 1C116, 1C117, 1C118, 1D001, 1D101, or 1D103 for MT reasons. | MT Column 1 |
| NP applies to ''technology'' for items controlled by 1B001, 1B101, 1C111, 1C116, 1D001, or 1D101 for NP reasons. | NP Column 1 |
| AT applies to entire entry. | AT Column 1 |

* * * * *

■ 35. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1E201 is amended by revising the ECCN heading to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1E201 ''Technology'' according to the General Technology Note for the ''use'' of items controlled by 1A002, 1A007, 1A202, 1A225 to 1A227, 1B201, 1B225 to 1B232, 1B233.b, 1C002.b.3 and b.4, 1C010.a, 1C010.b, 1C010.e.1, 1C202, 1C210, 1C216, 1C225 to 1C237, 1C239, 1C240 or 1D201**

* * * * *

■ 36. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add ECCNs 1E608 and 1E613 between ECCNs 1E355 and 1E994 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**1E608 ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of equipment controlled in 1B608 or materials controlled by 1C608**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| *Control(s)* | *Country Chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to ''technology'' ''required'' for 1C608.m. | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of all License Exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1E608.

**List of Items Controlled**

*Related Controls:* (1) Technical data directly related to articles enumerated or otherwise described in USML Categories III, IV, or V are subject to the controls of those USML Categories, respectively.

(2) ''Technology'' for chlorine trifluoride is controlled under ECCN 1E001 (''development'' and ''production'') and ECCN 1E101 (''use'').

*Related Definitions:* N/A

*Items:*

a. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of equipment controlled by ECCN 1B608 or materials controlled by ECCN 1C608.

b. ''Technology'' ''required'' for the ''development'' or ''production'' of nitrocellulose with nitrogen content over 12.6% and at rates greater than 2000 pounds per hour.

c. ''Technology'' ''required'' for the ''development'' or ''production'' of nitrate esters (*e.g.,* nitroglycerine) at rates greater than 2000 pounds per hour.

**1E613 "Technology" "required" for the "development," "production," operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by 1A613 or 1B613 or "software" controlled by 1D613, as follows (see list of items controlled).**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry except 1E613.y. | NS Column 1 |
| RS applies to entire entry except 1E613.y. | RS Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry, except 1E613.y. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a description of all license exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any "technology" in 1E613.

**List of Items Controlled**

*Related Controls:* Technical data directly related to articles controlled by USML Category X are subject to the control of USML paragraph X(e) of the ITAR.
*Related Definitions:* N/A
*Items:*

a. "Technology" (other than "technology" controlled by paragraph .y of this entry) "required" for the "development," "production," operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or "software" controlled by ECCNs 1A613 (except 1A613.y), 1B613 or 1D613 (except 1D613.y).

b. through x. [Reserved]

y. Specific "technology" "required" for the "production," "development," operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 1A613.y or 1D613.y.

■ 37. In Supplement No. 1 to part 774—the Commerce Control List, Category 3—Electronics, ECCN 3A232 is amended by revising paragraph (1) in the Related Controls in the List of Items Controlled section to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**3A232 Detonators and multipoint initiation systems, as follows (see List of Items Controlled)**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See ECCNs 0A604 and 1A007 for electrically driven explosive detonators. * * *

* * * * *

■ 38. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, add ECCN 9A604 between ECCNs 9A120 and 9A610 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9A604 Commodities related to launch vehicles, missiles, and rockets (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to 9A604.a, .c, and .d. | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*LVS:* N/A
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 9A604.

**List of Items Controlled**

*Related Controls:* (1) Launch vehicles, missiles, and rockets are subject to the ITAR (see 22 CFR § 121.1, USML Category IV). (2) See ECCN 0A919 for foreign-made "military commodities" that incorporate more than a *de minimis* amount of U.S.-origin "600 series" controlled content.
*Related Definitions:* N/A
*Items:*

a. Thermal batteries "specially designed" for systems controlled under USML Category IV capable of a range equal to or greater than 300 km.

b. Thermal batteries, except for thermal batteries controlled by 9A604.a, that are "specially designed" for systems controlled under USML Category IV.

c. "Components" "specially designed" for ramjet, scramjet, pulse jet, or combined cycle engines controlled under USML Category IV, including devices to regulate combustion in such commodities.

d. "Components" "specially designed" for hybrid rocket motors controlled under USML Category IV usable in rockets, missiles, or unmanned aerial vehicles capable of a range equal to or greater than 300 km.

e. "Components" "specially designed" for pressure gain combustion-based propulsion systems controlled under USML Category IV.

f. through w. [Reserved]

x. "Parts," "components," "accessories," and "attachments" that are "specially designed" for a commodity subject to control in paragraphs .a through .d of this ECCN, or a defense article controlled under USML Category IV, and not specified elsewhere on the USML.

**Note 1 to 9A604.x:** *Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 9A604.x, are controlled by ECCN 9A604.x.*

**Note 2 to 9A604.x:** *"Parts," "components," "accessories," and "attachments" specified in USML Category IV(h) are subject to the controls of that paragraph.*

* * * * *

## Supplement No. 1 to Part 774—[Amended]

■ 39. In Supplement No. 1 to part 774 (the Commerce Control List) Category 9, ECCN 9A610, remove and reserve paragraph .t in the Items paragraph of the List of Items Controlled Section.

■ 40. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9B115 is amended by revising the heading of the ECCN and by revising the "Related Controls" paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9B115 "Specially designed" production "equipment" for systems, sub-systems and "components" controlled by ECCN 9A101 or by USML Category IV(d)(2), (d)(3), (d)(4), or (h)(17)**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) Although items described in USML Category IV(d)(2), (d)(3), (d)(4), or (h)(17) are "subject to the ITAR" (see 22 CFR parts 120 through 130), the production "equipment" controlled in this entry that is related to these items is subject to the export licensing authority of BIS. (2) "Specially designed" production "equipment" for systems, sub-systems, and "components" described in USML Category IV(d)(1), (d)(7), (h)(1), (h)(4), (h)(6), (h)(7), (h)(8), (h)(9), (h)(11), (h)(20), (h)(21), (h)(26), or (h)(28) are controlled by ECCN 9B604. (3) See ECCN 0A919 for foreign-made "military commodities" that incorporate more than a *de minimis* amount of US-origin "600 series" controlled content.

* * * * *

■ 41. In Supplement No. 1 to part 774 (the Commerce Control List), Category

9—Aerospace and Propulsion, ECCN 9B116 is amended by revising the heading of the ECCN and by revising the ''Related Controls'' paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9B116 ''Specially designed'' ''production facilities'' for systems, sub-systems, and ''components'' controlled by ECCN 9A012 (applies to MT-controlled items only) or 9A101 or by USML Category IV(d)(2), (d)(3), (d)(4), or (h)(17)**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) Although items described in USML Category IV(d)(2), (d)(3), (d)(4), or (h)(17) are ''subject to the ITAR'' (see 22 CFR parts 120 through 130), the ''production facilities'' controlled in this entry that are related to these items are subject to the export licensing authority of BIS.

(2) ''Specially designed'' ''production facilities'' for systems, sub-systems, and ''components'' described in USML Category IV(d)(1), (d)(7), (h)(1), (h)(4), (h)(6), (h)(7), (h)(8), (h)(9), (h)(11), (h)(20), (h)(21), (h)(26), or (h)(28) are controlled by ECCN 9B604. (3) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

* * * * *

■ 42. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, add ECCN 9B604 between ECCNs 9B117 and 9B610 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9B604 Test, inspection, and production ''equipment'' and related commodities ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities in ECCN 9A604 or related defense articles in USML Category IV (see List of Items Controlled)**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to 9B604.a and .b and to 9B604.d ''specially designed'' ''production facilities'' or production ''equipment'' for defense articles identified as MTCR Annex items in USML Category IV(d)(1), (h)(1), (h)(4), (h)(6), (h)(7), (h)(8), (h)(9), (h)(11), (h)(20), (h)(21), or (h)(26). | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of all License Exceptions)**

*LVS:* $1,500
*GBS:* N/A
*CIV:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 9B604.

**List of Items Controlled**

*Related Controls:* (1) ''Production facilities'' for the ''production'' or ''development'' of commodities enumerated or otherwise described in ECCN 9A012 or 9A101 or in USML Category IV(d)(2), (d)(3), (d)(4), or (h)(17) are controlled by ECCN 9B116. (2) Test, inspection, and other production ''equipment'' ''specially designed'' for the ''production'' or ''development'' of commodities enumerated or otherwise described in ECCN 9A101 or in USML Category IV(d)(2), (d)(3), (d)(4), or (h)(17) are controlled by ECCN 9B115. (3) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content.

*Related Definitions:* N/A

*Items:*

a. ''Production facilities'' ''specially designed'' for items that are controlled by USML Category IV(a)(1) or (a)(2).

b. Test, calibration, and alignment equipment ''specially designed'' for items that are controlled by USML Category IV(h)(28).

c. Test, inspection, and other production ''equipment'' that is ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of commodities described in ECCN 9A604, or defense articles controlled under USML Category IV, and not specified in ECCN 0B604.a or in ECCN 9B604.a, .b, or .d.

d. ''Specially designed'' ''production facilities'' or production ''equipment'' for systems, sub-systems, and ''components'' controlled by USML Category IV(d)(1), (d)(7), (h)(1), (h)(4), (h)(6), (h)(7), (h)(8), (h)(9), (h)(11), (h)(20), (h)(21), (h)(26), or (h)(28).

e. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity subject to control in paragraph .a or .b of this ECCN.

* * * * *

43. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9D001 is amended by revising the ECCN heading, by revising the MT controls paragraph in the License Requirements section, and by revising the Related Controls paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9D001 ''Software'' ''specially designed'' or modified for the ''development'' of equipment or ''technology'' controlled by ECCN 9A001 to 9A004 (except for items in 9A004 that are subject to the ITAR, see 22 CFR part 121), 9A012, 9A101 (except for items in 9A101.b that are subject to the ITAR, see 22 CFR part 121), 9A106.d. or .e, 9A110, or 9A120, 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990, and 9B991), or ECCN 9E003**

**License Requirements**

*Reason for Control:* * * *

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| * * * * * | |
| MT applies to ''software'' for equipment controlled by 9B116 for MT reasons. | MT Column 1 |
| * * * * * | |

* * * * *

**List of Items Controlled**

*Related Controls:* ''Software'' that is ''required'' for the ''development'' of items specified in ECCNs 9A004 (except for items that are subject to the EAR), 9A005 to 9A011, 9A101.b (except for items that are subject to the EAR), 9A103 to 9A105, 9A106.a, .b, and .c, 9A107 to 9A109, 9A110 (for items that are ''specially designed'' for use in missile systems and subsystems), and 9A111 to 9A119 is ''subject to the ITAR'' (see 22 CFR parts 120 through 130).

* * * * *

■ 44. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9D002 is amended by revising the ECCN heading, by revising the NS controls paragraph in the License Requirements section, and by revising the Related Controls paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9D002 "Software" "specially designed" or modified for the "production" of equipment controlled by ECCN 9A001 to 9A004 (except for items in 9A004 that are subject to the ITAR, see 22 CFR part 121), 9A012, 9A101 (except for items in 9A101.b that are subject to the ITAR, see 22 CFR part 121), 9A106.d or .e, 9A110, or 9A120, 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990, and 9B991)**

**License Requirements**

*Reason for Control:* * * *

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to "software" for equipment controlled by 9A001 to 9A003, 9A012, and 9B001 to 9B010. | NS Column 1 |

* * * * *

* * * * *

**List of Items Controlled**

*Related Controls:* "Software" that is "required" for the "production" of items specified in ECCNs 9A004 (except for items that are subject to the EAR), 9A005 to 9A011, 9A101.b (except for items that are subject to the EAR), 9A103 to 9A105, 9A106.a, .b, and .c, 9A107 to 9A109, 9A110 (for items that are "specially designed" for use in missile systems and subsystems), and 9A111 to 9A119 is "subject to the ITAR" (see 22 CFR parts 120 through 130).

* * * * *

■ 45. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9D003 is amended by revising the ECCN heading and by revising the Related Controls paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9D003 "Software" incorporating "technology" specified by ECCN 9E003.h and used in "FADEC Systems" for propulsion systems controlled by ECCN 9A001 to 9A004 (except for items in 9A004 that are subject to the ITAR, see 22 CFR part 121), 9A101 (except for items in 9A101.b that are subject to the ITAR, see 22 CFR part 121), 9A106.d or .e, or 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990, and 9B991)**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See also 9D103. (2) "Software" "required" for the "use" of equipment specified in ECCNs 9A004 (except for items that are subject to the EAR), 9A005 to 9A011, 9A101.b (except for items that are subject to the EAR), 9A103 to 9A105, 9A106.a, .b, and .c, 9A107 to 9A109, 9A110 (for items that are "specially designed" for use in missile systems and subsystems), and 9A111 to 9A119 is "subject to the ITAR" (see 22 CFR parts 120 through 130).

(3) "Software" directly related to defense articles that are "subject to the ITAR" (see 22 CFR parts 120 through 130) is also "subject to the ITAR" (see 22 CRR parts 120 through 130).

* * * * *

■ 46. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9D104 is amended by revising the heading of the ECCN and by revising the Related Controls paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9D104 "Software" specially designed or modified for the "use" of equipment controlled by ECCN 9A001, 9A012 (for MT controlled items only), 9A101 (except for items in 9A101.b that are subject to the ITAR, see 22 CFR part 121), or 9A106.d**

* * * * *

**List of Items Controlled**

*Related Controls:* "Software" for commodities specified in ECCNs 9A005 to 9A011, 9A103 to 9A105, 9A101.b (except for items that are subject to the EAR), 9A106.a, .b, and .c, 9A107 to 9A109, 9A111, 9A115 to 9A118 is "subject to the ITAR" (see 22 CFR parts 120 through 130).

* * * * *

■ 47. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, add ECCN 9D604 between ECCNs 9D105 and 9D610 to read as follows:

**9D604 "Software" "specially designed" for the "development," "production," operation, or maintenance of commodities controlled by ECCN 9A604 or 9B604**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| *Control(s)* | *Country chart (See Supp. No. 1 to part 738)* |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to "software," as described in paragraph .a of this entry, for commodities controlled for MT reasons in ECCN 9A604.c or .d, or ECCN 9B604. | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*CIV:* N/A

*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 9D604.

**List of Items Controlled**

*Related Controls:* (1) Software directly related to articles enumerated or otherwise described in USML Category IV is controlled under USML Category IV(i). (2) See also ECCNs 9D101 and 9D104 for controls on "software" for the "use" of missiles and related commodities. (3) See ECCN 0A919 for foreign-made "military commodities" that incorporate more than a *de minimis* amount of U.S.-origin "600 series" controlled content.

*Related Definitions:* N/A

*Items*

a. "Software" "specially designed" for the "development," "production," operation or maintenance of commodities controlled by ECCN 9A604 or ECCN 9B604.

b. [Reserved]

■ 48. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9E001 is amended by revising the ECCN heading, by revising the MT controls paragraph in the License Requirements section, and by revising the Related Controls paragraphs in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

**9E001 "Technology" according to the General Technology Note for the "development" of equipment or "software", controlled by ECCN 9A001.b, 9A004 (except for items in 9A004 that are subject to the ITAR, see 22 CFR part 121), or 9A012, 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990, and 9B991), or ECCN 9D001 to 9D004, 9D101, or 9D104**

**License Requirements**

*Reason for Control:*

| Control(s) | Country chart (See Supp. No. 1 to part 738) |
|---|---|
| * * * * * | |
| MT applies to "technology" for commodities controlled by 9A012, 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B105, 9B106, 9B115, 9B116, 9B117, 9D001, 9D002, 9D003, or 9D004 for MT reasons. | MT Column 1 |
| * * * * * | |

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See also 9E101 and 1E002.f (for controls on "technology" for the repair of controlled structures, laminates or materials). (2) "Technology" required for the "development" of equipment described in ECCNs 9A004 (except for items that are subject to the EAR), 9A005 to 9A011 or "software" described in ECCNs 9D103 and 9D105 is "subject to the ITAR" (see 22 CFR parts 120 through 130).

* * * * *

■ 49. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9E002 is amended by revising the ECCN heading, by revising the MT controls paragraph in the License Requirements section, and by revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

**9E002 "Technology" according to the General Technology Note for the "production" of "equipment" controlled by ECCN 9A001.b, 9A004 (except for items in 9A004 that are subject to the ITAR, see 22 CFR part 121) or 9B (except for ECCNs 9B117, 9B604, 9B610, 9B619, 9B990, and 9B991).**

**License Requirements**

*Reason for Control:*

| Control(s) | Country chart (See Supp. No. 1 to part 738) |
|---|---|
| * * * * * | |
| MT applies to "technology" for equipment controlled by 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B105, 9B106, 9B115, or 9B116 for MT reasons. | MT Column 1 |
| * * * * * | |

* * * * *

**List of Items Controlled**

*Related Controls:* (1) See also 9E102. (2) See also 1E002.f for "technology" for the repair of controlled structures, laminates or materials. (3) "Technology" that is required for the "production" of equipment described in ECCNs 9A004 (except for items that are subject to the EAR) or 9A005 to 9A011 is "subject to the ITAR" (see 22 CFR parts 120 through 130).

* * * * *

■ 50. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9E101 is amended by revising the heading of the ECCN and by revising the "Related Controls" paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9E101 "Technology" according to the General Technology Note for the "development" or "production" of commodities or "software" controlled by ECCN 9A012 (applies only to "production" "technology" for MT-controlled items in 9A012), 9A101 (except for items in 9A101.b that are subject to the ITAR, see 22 CFR part 121), 9A106.d or .e, 9A110 (for items that are "specially designed" for non-military unmanned air vehicles controlled by 9A012), 9C110, 9D101, or 9D104**

* * * * *

**List of Items Controlled**

*Related Controls:* "Technology" that is required for items specified in ECCNs 9A101.b (except for items that are subject to the EAR), 9A104, 9A105, 9A106.a, .b, and .c, 9A107 to 9A109, 9A110 (for items that are "specially designed" for use in missile systems and subsystems), 9A111, 9A115 to 9A119, 9D103, and 9D105 is "subject to the ITAR" (see 22 CFR parts 120 through 130).

■ 51. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, ECCN 9E102 is amended by revising the heading of the ECCN and by revising the "Related Controls" paragraph in the List of Items Controlled to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

**9E102 "Technology" according to the General Technology Note for the "use" of commodities or "software" controlled by ECCN 9A004 (except for items in 9A004 that are subject to the ITAR, see 22 CFR part 121), 9A012, 9A101 (except for items in 9A101.b that are subject to the ITAR, see 22 CFR part 121), 9A106.d or .e, 9A110 (for items that are "specially designed" for non-military unmanned air vehicles controlled by 9A012), 9B105, 9B106, 9B115, 9B116, 9D101, or 9D104**

* * * * *

**List of Items Controlled**

*Related Controls:* (1) For the purpose of this entry, "use" "technology" is limited to items controlled for MT and their subsystems. (2) "Technology" for items specified in ECCNs 9A004 (except for items that are subject to the EAR), 9A005 to 9A011, 9A101.b (except for items that are subject to the EAR), 9A104, 9A105, 9A106.a, .b and .c, 9A107 to 9A109, 9A110 (for items that are "specially designed" for use in missile systems and subsystems), 9A111, 9A115 to 9A119, 9D103, and 9D105 is subject to the ITAR (see 22 CFR part 121).

* * * * *

■ 52. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, add ECCN 9E604 between ECCNs 9E102 and 9E990 to read as follows:

## Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

**9E604 "Technology" "required" for the "development," "production," operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 9A604 or 9B604, or "software" controlled by ECCN 9D604**

**License Requirements**

*Reason for Control:* NS, RS, MT, AT, UN

| Control(s) | Country chart (See Supp. No. 1 to part 738) |
|---|---|
| NS applies to entire entry. | NS Column 1 |
| RS applies to entire entry. | RS Column 1 |
| MT applies to "technology," as described in paragraph .a of this entry, for commodities and "software" controlled for MT reasons in ECCN 9A604, 9B604 or 9D604. | MT Column 1 |
| AT applies to entire entry. | AT Column 1 |
| UN applies to entire entry. | See § 746.1(b) for UN controls |

**List Based License Exceptions (See Part 740 for a Description of All License Exceptions)**

*CIV:* N/A
*TSR:* N/A

**Special Conditions for STA**

*STA:* Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this ECCN 9E604.

**List of Items Controlled**

*Related Controls:* (1) Technical data directly related to articles enumerated or otherwise described in USML Category IV is controlled under USML Category IV(i). (2) See also ECCNs 9E002, 9E101, and 9E102 for controls on ''technology'' for the ''development,'' ''production,'' and ''use'' of missiles and related items controlled on the CCL.

*Related Definitions:* N/A

*Items:*

a. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 9A604 or 9B604, or ''software'' controlled by ECCN 9D604.

b. [Reserved]

Dated: December 26, 2013.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2013–31322 Filed 12–31–13; 8:45 am]

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Part IV

## Department of Health and Human Services

45 CFR Parts 160 and 162

Administrative Simplification: Certification of Compliance for Health Plans; Proposed Rule

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of the Secretary**

**45 CFR Parts 160 and 162**

**[CMS–0037–P]**

**RIN 0938–AQ85**

## Administrative Simplification: Certification of Compliance for Health Plans

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would require a controlling health plan (CHP) to submit information and documentation demonstrating that it is compliant with certain standards and operating rules adopted by the Secretary of Health and Human Services (the Secretary) under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This proposed rule would also establish penalty fees for a CHP that fails to comply with the certification of compliance requirements.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided, no later than 5 p.m. on March 3, 2014.

**ADDRESSES:** In commenting, please refer to file code CMS–0037–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0037–P, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0037–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments only to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201 (Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services,

Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–1066 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Matthew Albright, (410) 786–2546. Terri Deutsch, (410) 786–9462 for questions regarding Collection of Information and the Regulatory Impact Statement.

**SUPPLEMENTARY INFORMATION:**

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, call 1–800–743–3951.

### I. Background

*A. Introduction*

Many factors contribute to the high cost of health care in the United States, but studies find that administrative costs substantially impact spending growth [2] and can likely be reduced.[2] Automated processes, through the use of standardized electronic transactions, can lessen health care providers' administrative burden in interacting with health insurers. Under the authority of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Secretary adopts standards and operating rules that facilitate the use of electronic transactions by creating greater uniformity in data exchange and reducing the health care industry's reliance on paper forms and manual processes to transmit data.

Although HIPAA standards and operating rules can reduce administrative burden, the health care industry has experienced difficulty transitioning to them by the regulatory compliance dates. Many in the industry attribute at least some implementation difficulties to the lack of a consistent testing process or framework before implementation of new standards and operating rules. This proposed rule is intended to serve as an initial step toward the development of a consistent testing process that will enable entities to better achieve and demonstrate compliance with HIPAA standards and operating rules.

This rule proposes that controlling health plans (CHPs) must submit certain information and documentation that demonstrates compliance with the adopted standards and operating rules for three electronic transactions: eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice. Such documentation would be an indication that a CHP has completed some internal and external testing.

[2] ''Technological Change and the Growth of Health Care Spending,'' A CBO Paper, Congressional Budget Office, January 2008, pg. 4, *http://www.cbo.gov/ftpdocs/89xx/doc8947/01-31-TechHealth.pdf*

[2] Morra, D., Nicholson, S., Levinson, W., Gans, D. N., Hammons, T., & Casalino, L. P. ''U.S. Physician Practices versus Canadians: Spending Nearly Four Times as Much Money Interacting With Payers,'' *Health Affairs:* 30(8):1443–1450, 2011.

Blanchfield, Bonnie B., James L. Hefferman, Bradford Osgood, Rosemary R. Sheehan, and Gregg S. Meyer, ''Saving Billions of Dollars—and Physician's Time—by Streamlining Billing Practices,'' *Health Affairs:* 29(6):1248–1254, 2010.

*B. Legislative and Regulatory Background*

This section summarizes the legislative and regulatory history of standards, operating rules, and the enforcement processes in order to frame the process we refer to in this proposed rule as certification of compliance.

1. HIPAA Standards and Code Sets

Section 1172(a) of the Social Security Act (the Act) provides that any standard adopted under HIPAA shall apply, in whole or in part, to the following persons, known as ''covered entities'': (1) A health plan; (2) a health care clearinghouse; and (3) a health care provider who transmits any health information in electronic form in connection with a HIPAA transaction. Covered entities are required to conduct as standard transactions all electronic transactions for which the Secretary has adopted a standard.

In the August 17, 2000 **Federal Register** (65 FR 50312), we published a final rule titled ''Health Insurance Reform: Standards for Electronic Transactions'' (hereinafter referred to as the Transactions and Code Sets final rule). That rule implemented some of the HIPAA Administrative Simplification requirements by adopting standards developed by standards development organizations (SDOs) for certain electronic health care transactions, and medical data code sets to be used in those transactions. The Transactions and Code Sets final rule adopted the Accredited Standards Committee (ASC) X12 standards Version 4010/4010A1 and the National Council for Prescription Drug Programs (NCPDP) Telecommunication standard Version 5.1.

In the January 16, 2009 (74 FR 3296) final rule titled, ''Health Insurance Reform; Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards'' (hereinafter referred to as the Modifications final rule), we adopted updated versions of the standards (ASC X12 Version 5010) (hereinafter referred to as Version 5010) and NCPDP Telecommunication Standard Implementation Guide, Version D. Release 0 (hereinafter referred to as Version D.0), and equivalent Standard Batch Implementation Guide, Version 1, Release 2 (hereinafter referred to as Version 1.2) for the electronic health care transactions that were originally adopted in the Transactions and Code Sets final rule. We also adopted a new standard for the Medicaid pharmacy subrogation transaction—the Batch Standard Medicaid Subrogation Implementation Guide, Version 3, Release 0 (hereinafter referred to as Version 3.0), which is specified at 45 CFR 162, subpart S. Covered entities were required to comply with Version 5010 and Version D.0, and Version 3.0 for Medicaid pharmacy subrogation transactions, effective January 1, 2012 (except for small health plans, which were required to comply with Version 3.0 on January 1, 2013).

In the January 10, 2012 (77 FR 1556) interim final rule with comment period, titled ''Administrative Simplification: Adoption of Standards for Health Care Electronic Funds Transfers (EFT) and Remittance Advice'' (hereinafter referred to as the Health Care EFT Standards IFC), we adopted standards for the health care electronic funds transfers (EFT) and remittance advice transaction, defined the transaction, and explained how the adopted standards support and facilitate it.

In the September 5, 2012 **Federal Register** (77 FR 54664), we published a final rule, ''Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD–10–CM and ICD–10–PCS) Medical Data Code Sets'' (hereinafter referred to as the HPID final rule). That rule, as relevant here, adopted the standard for a national unique health plan identifier (HPID), established requirements for HPID implementation, and adopted a data element to serve as an ''other entity'' identifier (OEID)—an identifier for entities that are not health plans, health care providers, or individuals, but that need to be identified in standard transactions.

2. HIPAA Operating Rules

Section 1173(g) of the Act was added by section 1104 of the Patient Protection and Affordable Care Act (Pub L. 111–148), enacted on March 23, 2010, as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), enacted on March 30, 2010 (collectively known as and hereinafter referred to as the Affordable Care Act). Section 1173(g) of the Act requires the Secretary to adopt a single set of operating rules for each of the transactions listed in section 1173(a)(1) of the Act. Operating rules are defined by section 1171(9) of the Act as ''the necessary business rules and guidelines for the electronic exchange of information that are not defined by a standard or its implementation specifications as adopted for purposes of this part.'' Additionally, sections 1173(g)(2)(D), (g)(3)(C), and (g)(3)(D) of the Act clarify aspects of the operating rules and the requirements of the operating rules authoring entity.

The Council for Affordable Quality Healthcare (CAQH) Committee on Operating Rules for Information Exchange (CORE) was established in 2005 as a national initiative, bringing together over 100 health care industry stakeholders to simplify health care administration through the improvement of electronic health care information exchange. CAQH CORE's mission is to ''build consensus among healthcare industry stakeholders on a set of operating rules that facilitate administrative interoperability between providers and health plans.'' [3]

With consensus among health care industry stakeholder members, CAQH CORE, in 2008, developed two sets of operating rules for the eligibility for a health plan and health care claim status transactions (hereinafter referred to as Phase I and Phase II CAQH CORE Operating Rules). The operating rules built upon applicable HIPAA standard transaction requirements, and enabled providers to submit transactions from any system, facilitating administrative and clinical data integration. Numerous health care entities voluntarily adopted the Phase I and II CAQH CORE Operating Rules, and CAQH CORE demonstrated that the use of these rules yielded a positive return on investment for health plans and providers.[4]

In August and September, 2010, the National Committee on Vital and Health Statistics [5] (NCVHS), in furtherance of its statutory mission to advise the Secretary, engaged in a comprehensive review of health care operating rules and their authors. The NCVHS advised the Secretary that CAQH CORE met the requirements of section 1173(g)(2) of the Act to be the operating rules authoring entity for the non-retail pharmacy eligibility for a health plan and health care claim status transactions.[6]

After assessing its qualifications and the NCVHS's recommendation, the

[3] CAQH CORE Web site: *http://www.caqh.org/pdf/CORE_MASTER_Presentation_4-15-08.pdf.*

[4] CAQH CORE Web site: *http://www.caqh.org/pdf/CORE_MASTER_Presentation_4-15-08.pdf. http://www.caqh.org/COREIBMstudy.php.*

[5] Established by the Congress, the NCVHS is a body that advises the Secretary on health data, statistics, and national health information policy and that has a significant role in the Secretary's adoption of operating rules under section 1173(g)(3) of the Act.

[6] September 30, 2010 letter from NCVHS to Secretary Kathleen Sebelius, re: Affordable Care Act, Administrative Simplification: Operating Rules for Eligibility and Claims Status Transactions: *http://www.ncvhs.hhs.gov/reptrecs.htm.*

Secretary determined that CAQH CORE was qualified to be the operating rule authority entity for the eligibility for a health plan and health care claim status transactions. In the July 8, 2011 (76 FR 40458) interim final rule with comment period (IFC) titled, ''Administrative Simplification: Adoption of Operating Rules for Eligibility for a Health Plan and Health Care Claim Status Transactions'' (hereinafter referred to as the Operating Rules IFC), we adopted Phase I and II CAQH CORE Operating Rules for the two transactions.[7] The Operating Rules IFC also defined the term ''operating rules,'' revised the definition for ''standard transaction'' to indicate that a standard transaction is one that complies with both the adopted standards and operating rules, and described the relationship between operating rules and standards. In the Operating Rules IFC, we did not adopt the Phase I and II CAQH CORE Operating Rules requirements regarding acknowledgments, nor did we adopt CORE's Certification process by which an entity demonstrates compliance with Phase I and II CAQH CORE Operating Rules.[8]

On March 23, 2011, the NCVHS recommended that CAQH CORE, in collaboration with NACHA—The Electronic Payments Association, be the authoring entity for the health care electronic funds transfers (EFT) and remittance advice transaction operating rules.[9] In developing the health care electronic funds transfers (EFT) and remittance advice transaction operating rules, CAQH CORE held more than thirty open conference calls and conducted over 15 straw polls with industry and government representatives between March and August 2011. More than 80 health care entities analyzed, reviewed, and achieved consensus on the operating rules.

On December 7, 2011, the NCVHS, in its advisory role, recommended to the Secretary (subject to CAQH CORE making certain revisions) that the Phase III CAQH CORE EFT & ERA Draft Operating Rule Set (or Phase III Operating Rules) be adopted as the operating rules for the health care electronic funds transfers (EFT) and remittance advice transaction. On August 10, 2012, in 77 FR 48008, we adopted these operating rules in a rule titled ''Administrative Simplification: Adoption of Operating Rules for Health Care Electronic Funds Transfers (EFT) and Remittance Advice Transactions; Final Rule'' (hereinafter EFT & ERA Operating Rule Set IFC). We did not, however, adopt the CAQH CORE operating rule in the EFT & ERA Operating Rule Set that required the use of the Version 5010 999 acknowledgements standard in the Phase III CAQH CORE 350 Health Care Claim Payment/Advice (835) Infrastructure Rule requirement 4.2 (77 FR 48017).[10]

The NCVHS recommended in May 2012 that CAQH CORE be the authoring entity for the operating rules for the remaining HIPAA transactions[11]—health care claims or equivalent encounter information, health claims attachments, enrollment and disenrollment in a health plan, health plan premium payments, and referral certification and authorization, with respect to which the Secretary agreed.[12]

3. Current HIPAA Administrative Simplification Enforcement

Under sections 1176 and 1177 of the Act, covered entities may be subject to civil money penalties (CMPs) and criminal penalties for violations of HIPAA Administrative Simplification rules. HHS administers the CMPs under section 1176 of the Act and the U.S. Department of Justice administers the criminal penalties under section 1177 of the Act.

Section 1176(b) of the Act sets out limitations on the Secretary's authority and provides the Secretary certain discretion with respect to imposing CMPs. For example, this section provides that no CMPs may be imposed with respect to an act if a penalty has been imposed under section 1177 of the Act with respect to such act. This section also generally precludes the Secretary from imposing a CMP for a violation corrected during the 30-day period beginning when an individual knew or, by exercising reasonable diligence, would have known that the failure to comply occurred. The Secretary promulgated rules pertaining to compliance with, and enforcement of, the HIPAA Administrative Simplification rules that are codified at section 45 part 160, subparts C, D, and E, and collectively referred to as the Enforcement Rule.

In the April 17, 2003 **Federal Register** (68 FR 18895), we issued an interim final rule entitled, ''Civil Money Penalties: Procedures for Investigations, Imposition of Penalties, and Hearings'' that established the procedural requirements for the imposition of CMPs for violations of HIPAA Administrative Simplification requirements. We expanded upon that rule with a February 16, 2006 final rule entitled, ''HIPAA Administrative Simplification: Enforcement'' (71 FR 8390), that made the compliance rules applicable to all HIPAA Administrative Simplification Rules. That rule also amended the rules relating to the imposition of CMPs and clarified the investigation process, bases for liability, determination of the penalty amount, grounds for waiver, conduct of the hearing, and the appeal process. These rules' preambles provide additional information that may be helpful regarding HIPAA's compliance and enforcement.

Section 13410(d) of the Health Information Technology for Economic and Clinical Health Act (HITECH), enacted on February 17, 2009 as part of the American Recovery and Reinvestment Act of 2009, revised section 1176 of the Act by strengthening enforcement of the HIPAA rules.

In the October 30, 2009 **Federal Register** (74 FR 56123), we published an IFC titled ''HIPAA Administrative Simplification: Enforcement'' that conformed HIPAA's enforcement regulations to section 1176 of the Act, as it was modified by section 13410(d) of HITECH. That rule amended HIPAA enforcement regulations as they relate to the imposition of CMPs to incorporate the HITECH categories of violations, tiered ranges of CMP amounts, and revised limitations on the Secretary's authority to impose CMPs for established violations of HIPAA Administrative Simplification rules.

In the January 25, 2013 **Federal Register** (78 FR 5566), we published a final rule titled ''Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules'' (hereinafter referred to as the HIPAA Omnibus final rule). Among other modifications to the HIPAA rules, the HIPAA Omnibus final rule modified HIPAA Privacy, Security, and Breach

[7] CAQH CORE Phases I and II Operating Rules are available online at no charge at *http://www.caqh.org/COREVersion5010.phb.*

[8] Provisions of the Operating Rule IFC at 76 FR 40461. Information on the CAQH CORE Rules can be found at: *http://www.caqh.org/CORE_phase1.php, http://www.caqh.org/CORE_phase2.php,* and *http://www.caqh.org/CORE_phase3.php.* CAQH CORE FAQS can be found at: *http://www.caqh.org/pdf/COREFAQsPartA.pdf* for general information; *http://www.caqh.org/pdf/COREFAQsPartC.pdf* for Phase I and II.

[9] March 23, 2011 NCVHS letter to the Secretary: *http://ncvhs.hhs.gov/110323lt.pdf.*

[10] CAQH CORE FAQS for Phase III can be found at *http://www.caqh.org/pdf/COREFAQsPartD.pdf.*

[11] May 5, 2012 NCVHS letter to the Secretary: *http://www.ncvhs.hhs.gov/120505lt.pdf.*

[12] September 12, 2012 letter from Secretary to NCVHS: *http://www.ncvhs.hhs.gov/120912lt.pdf.*

Notification Rules as mandated by HITECH, as well as finalized a number of modifications to the HIPAA Enforcement Rule, including incorporating a tiered civil money penalty structure, that were originally published as an interim final rule on October 30, 2009 (74 FR 56123) and proposed in a notice of proposed rulemaking on July 14, 2010 (75 FR 40868).

4. HIPAA Administrative Simplification Enforcement Under the Affordable Care Act

Section 1104 of the Affordable Care Act amended the Social Security Act by adding sections 1173(h) and (j). Section 1173(h) of the Act includes certification of compliance requirements for health plans, and requires the Secretary to conduct periodic audits of health plans and entities that have service contracts with health plans. Section 1173(j) of the Act establishes new penalties for health plans that fail to comply with the certification of compliance requirements.

5. Health Plan Certification of Compliance Requirements

Section 1173(h)(1)(A) of the Act requires health plans to file a statement with the Secretary, in such form as the Secretary may require, by December 31, 2013, certifying that their data and information systems are in compliance with the standards and operating rules for the following transactions: Eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice. In this proposed rule, we refer to the requirements mandated by section 1173(h)(1)(A) of the Act as the ''first certification of compliance requirements.'' Table 1 displays the specific standards and operating rules to which the requirements for the first certification of compliance apply.

In similar fashion, section 1173(h)(1)(B) of the Act mandates, by December 31, 2015, health plan certification of compliance for the following HIPAA transactions: Health care claims or equivalent encounter information, enrollment and disenrollment in a health plan, health plan premium payments, health claims attachments, and referral certification and authorization. Likewise, section 1173(h)(5) of the Act mandates that health plans meet certification of compliance requirements for later versions of the standards and operating rules.

The scope of this proposed rule is limited to the first certification of compliance. Because operating rules for the transactions listed in section 1173(h)(1)(B) of the Act have not yet been adopted, nor has a standard been adopted for health claims attachments, we cannot yet determine what documentation will be necessary to demonstrate compliance with those standards and operating rules. We will adopt certification of compliance requirements for the transactions listed in section 1173(h)(1)(B) of the Act, and for later adopted versions of standards and operating rules, in subsequent rulemaking.

TABLE 1—STANDARDS AND OPERATING RULES TO WHICH THE FIRST CERTIFICATION OF COMPLIANCE APPLIES

| Transactions | Standards | Operating rules |
|---|---|---|
| Eligibility for a Health Plan (request and response)—Dental, Professional, and Institutional. | ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Eligibility Benefit Inquiry and Response (270/271), April 2008, ASC X12N/005010X279. | The following CAQH CORE Phase I and Phase II operating rules, excluding where such rules reference and/or pertain to acknowledgements and CORE certification):<br>(1) Phase I CORE 152: Eligibility and Benefit Real Time Companion Guide Rule, version 1.1.0, March 2011, and CORE v5010 Master Companion Guide Template.<br>(2) Phase I CORE 153: Eligibility and Benefits Connectivity Rule, version 1.1.0, March 2011.<br>(3) Phase I CORE 154: Eligibility and Benefits 270/271 Data Content Rule, version 1.1.0, March 2011.<br>(4) Phase I CORE 155: Eligibility and Benefits Batch Response Time Rule, version 1.1.0, March 2011.<br>(5) Phase I CORE 156: Eligibility and Benefits Real Time Response Rule, version 1.1.0, March 2011.<br>(6) Phase I CORE 157: Eligibility and Benefits System Availability Rule, version 1.1.0, March 2011.<br>(7) Phase II CORE 258: Eligibility and Benefits 270/271 Normalizing Patient Last Name Rule, version 2.1.0, March 2011.<br>(8) Phase II CORE 259: Eligibility and Benefits 270/271 AAA Error Code Reporting Rule, version 2.1.0.<br>(9) Phase II CORE 260: Eligibility & Benefits Data Content (270/271) Rule, version 2.1.0, March 2011.<br>(10) Phase II CORE 270: Connectivity Rule, version 2.2.0, March 2011. |
| Eligibility for a Health Plan—Retail Pharmacy Drugs. | Telecommunication Standard Implementation Guide, Version D, Release 0 (Version D.0), August 2007, and equivalent Batch Standard Implementation Guide, Version 1, Release 2 (Version 1.2), National Council for Prescription Drug Programs. | |

TABLE 1—STANDARDS AND OPERATING RULES TO WHICH THE FIRST CERTIFICATION OF COMPLIANCE APPLIES—Continued

| Transactions | Standards | Operating rules |
|---|---|---|
| Health Care Claim Status | ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health claim status Request and Response (276/277), August 2006, ASC X12N/005010X212, and Errata to Health claim status Request and Response (276/277), ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, April 2008, ASC X12N/005010X212E1. | The following CAQH CORE Phase II operating rules (updated for Version 5010), excluding where such rules reference and/or pertain to acknowledgements and CORE certification:<br>(1) Phase II CORE 250: Claim Status Rule, version 2.1.0, March 2011, and CORE v5010 Master Companion Guide, 00510, 1.2, March 2011.<br>(2) Phase II CORE 270: Connectivity Rule, version 2.2.0, March 2011. |
| Health Care Electronic Funds Transfers (EFT) and Remittance Advice. | *ERA:* ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim Payment/Advice (835), April 2006, ASC X12N/005010X221. | The following CAQH CORE Phase III EFT & ERA Operating Rule Set, approved June 2012:<br>(1) Phase III CORE 380 EFT Enrollment Data Rule, version 3.0.0, June 2012.<br>(2) Phase III CORE 382 ERA Enrollment Data Rule, version 3.0.0, June 2012.<br>(3) Phase III 360 CORE Uniform Use of CARCs and RARCs (835) Rule, version 3.0.0, June 2012.<br>(4) CORE-required Code Combinations for CORE-defined Business Scenarios for the Phase III CORE 360 Uniform Use of Claim Adjustment Reason Codes and Remittance Advice Remark Codes (835) Rule, version 3.0.0, June 2012.<br>(5) Phase III CORE 370 EFT & ERA Reassociation (CCD+/835) Rule, version 3.0.0, June 2012.<br>(6) Phase III CORE 350 Health Care Claim Payment/Advice (835) Infrastructure Rule, version 3.0.0, June 2012, except Requirement 4.2 titled ''Health Care Claim Payment/Advice Batch Acknowledgement Requirements''.<br>(7) ACME Health Plan, CORE v5010 Master Companion Guide Template, 005010, 1.2, March 2011 (incorporated by reference in § 162.920), as required by the Phase III CORE 350 Health Care Claim Payment/Advice (835) Infrastructure Rule, version 3.0.0, June 2012. |
| | *Stage 1 Payment Initiation:* The National Automated Clearing House Association (NACHA) Corporate Credit or Deposit Entry with Addenda Record (CCD+) implementation specifications as contained in the 2011 NACHA Operating Rules & Guidelines: NACHA Operating Rules, Appendix One: ACH File Exchange Specifications; and NACHA Operating Rules, Appendix Three: ACH Record Format Specifications, Subpart 3.1.8 Sequence of Records for CCD Entries.<br>*Data content in CCD Addenda Record:* Accredited Standards Committee (ASC) X12 Standards for Electronic Data Interchange Technical Report Type 3, ''Health Care Claim Payment/Advice (835), April 2006: Section 2.4: 835 Segment Detail: ''TRN Reassociation Trace Number,'' Washington Publishing Company, 005010X221. | |

Section 1173(h)(2) of the Act provides that a health plan will not be considered to have met section 1173(h)(1) of the Act certification requirements unless it provides the Secretary adequate documentation of compliance that—

- Demonstrates to the Secretary that it conducts the electronic transactions specified in section 1173(h)(1) of the Act in a manner that fully complies with the regulations of the Secretary; and
- Shows that it has completed end-to-end testing for such transactions with its

partners, such as hospitals and physicians.

Section 1173(h)(3) of the Act extends the certification and submission requirements to entities that have service contracts with health plans, though the compliance onus remains on the health plan. In addition, the Secretary is authorized by section 1173(h)(4) of the Act to designate independent, outside entities to certify that health plans have complied with the certification requirements, so long as the certification standards used by these entities are in accordance with the standards and operating rules adopted by the Secretary.

6. Penalty Fees

Section 1173(j) of the Act specifies penalties for health plans that fail to meet section 1173(h) certification and documentation of compliance requirements. Sections 1173(j)(1)(B) through (F) of the Act specify the amount of, and process for assessing, penalty fees against health plans. Section 1173(j)(1)(B) of the Act requires the Secretary to assess a $1 per covered life per day penalty fee, assessed per person covered by the plan for which its data systems for major medical policies are not in compliance for each day the plan is not in compliance, against a health plan until certification is complete. Section 1173(j)(1)(C) of the Act requires the Secretary to double the amount of the penalty fees assessed against a health plan that knowingly provides inaccurate or incomplete information in certifying compliance. Section 1173(j)(1)(F) of the Act directs the Secretary to determine the number of covered lives underlying the calculation of the penalty fee amount based upon a health plan's most recent statements and filings submitted to the Securities and Exchange Commission.

Section 1173(j)(1)(D) of the Act directs that the penalty fees be increased on an annual basis by the annual percentage increase in total national health care expenditures, as determined by the Secretary. Finally, section 1173(j)(1)(E) of the Act caps the penalties that may be annually imposed on a health plan to $20 per covered life under such plan, or, in the event of misrepresentation under section 1173(j)(1)(C) of the Act, $40 per covered life.

7. Notice, Dispute, and Penalty Process

Sections 1173(j)(2) through (4) of the Act outline how the penalty fees are to be assessed and collected. Section 1173(j)(2) of the Act requires the Secretary to establish a process to assess penalty fees that provides a health plan with reasonable notice and a dispute resolution procedure prior to the Secretary of the Treasury sending a notice of assessment to a health plan.

Section 1173(j)(3) of the Act directs the Secretary, by May 1, 2014, and annually thereafter, to provide the Secretary of the Treasury with a report of health plans that have been assessed penalty fees. Section 1173(j)(4) of the Act directs the Secretary of the Treasury to collect the penalty fees, and by August 1, 2014 and annually thereafter, provide each plan assessed a penalty fee a notice of the amount and due date of the fee. Section 1173(j)(4)(C) of the Act directs health plans assessed penalty fees to make payment to the Secretary of the Treasury by November 1, 2014, and annually thereafter. Section 1173(j)(4)(D) of the Act provides that interest, at a rate as determined pursuant to the underpayment rate established under section 6621 of the Internal Revenue Code of 1986, accrues on any penalty fee not paid by the due date, and that any unpaid penalty fees are to be treated as a past due, legally enforceable debt owed to a federal agency for purposes of section 6402(d) of the Internal Revenue Code of 1986. Finally, section 1173(j)(4)(E) of the Act states that any fee charged or allocated for collection activities conducted by the Department of the Treasury's Financial Management System will be passed on to the health plan on a pro-rated basis and added to the penalty fee collected.

8. Audits

Section 1173(h)(6) of the Act states that the Secretary shall conduct periodic audits to ensure that health plans, including entities that have service contracts with health plans, are in compliance with the adopted standards and operating rules, as referenced in Table 1. The process and scope of these audits are not addressed in this proposed rule.

*C. Certification of Compliance and Strategy for a Consistent Testing Processes*

Beyond the first certification of compliance, section 1173(h)(5) of the Act requires health plan certification for new and revised standards and operating rules adopted by the Secretary. We intend for future rulemakings in which we adopt new or modified standards and operating rules to also include certification of compliance processes for those new or modified standards and operating rules. We believe the benefit of including the certification of compliance requirements in those rulemakings is that it will move covered entities toward a consistent, industry-wide testing framework that, we believe, will support a more seamless transition to new and modified standards and operating rules.

In recent years, the health care industry has experienced challenges in implementing the HIPAA Administrative Simplification requirements, such as Version 5010, ICD–10, and the operating rules for the eligibility for a health plan and health care claim status transaction, by the regulatory compliance dates. We have responded to industry's needs for additional time by delaying implementation or relaxing enforcement periods for the requirements, but such practices can be expensive to industry.

While many factors may cause a covered entity to have difficulty implementing a new Administrative Simplification requirement, many in industry attribute some implementation issues to the lack of a consistent testing process or framework.[13] The health care industry reports that testing is critical to ensure the integrity of internal application systems and confirm a system's capability to conduct compliant transactions.[14] The NCVHS stated that a uniform testing process that included full end-to-end testing well before the compliance dates for Version 5010 would have identified issues that could have been mitigated in advance of the compliance date.[15]

Ideally, certification of compliance, as mandated by section 1173(h) of the Act, should support a standardized process for demonstrating compliance. Such a standardized process for demonstrating compliance should require a health plan to undergo testing within a consistent, industry-wide framework that results in the ability to generate specific documents that demonstrate compliance. We believe such a process would solve some of the significant implementation issues the industry has experienced. The certification of compliance provisions we propose in this rule are the first step toward a standardized testing framework to

[13] Many of the assumptions in this section come from an NCVHS hearing held on June 20, 2012 in which these issues were discussed. The hearing and the NCVHS' conclusions are summarized in ''Re: Findings from NCVHS Hearings on Administrative Simplification in June 2012—an Update on Health Care Administrative Transactions,'' September 21, 2012 letter to Secretary Sebelius from the National Committee on Vital and Health Statistics, pg 2. A copy of the letter and testimony from the hearing can be found at: *http://www.ncvhs.hhs.gov/*.

[14] See ''Transaction Compliance and Certification: A White Paper Describing the Recommended Solutions for Compliance Testing and Certification of the HIPAA Transactions,'' prepared by the Workgroup for Electronic Data Interchange (WEDI) Transactions Workgroup, March 10, 2010.

[15] Ibid.

support a more seamless transition to new and revised standards or operating rules.

## II. Provisions of the Proposed Rule

### *A. Submission Requirements*

Section 1173(h) of the Act requires health plans to provide the Secretary, in such form as the Secretary may require, adequate documentation of compliance with the standards and operating rules. In accordance with section 1173(h) of the Act, we propose the information and documentation that controlling health plans (CHPs) would be required to submit to the Secretary for the first certification of compliance in the new regulation § 162.926.

In the HPID final rule, we created two categories of health plans [16] for purposes of specifying enumeration requirements for the health plan identifier (HPID): CHPs and subhealth plans (SHPs). In this proposed rule, we propose that CHPs, on behalf of themselves and their SHPs, if any, be responsible for submitting the information and documentation for the first certification of compliance under § 162.926.

Under proposed § 162.926, a CHP would be required to submit the following information and documentation, in one submission, to the Secretary:

- Its number of covered lives on the date it submits the documentation.
- Documentation that demonstrates it has obtained either a CAQH CORE—

++ Certification Seal for Phase III CAQH CORE EFT & ERA Operating Rules (hereinafter referred to as a Phase III CORE Seal); or

++ HIPAA Credential for the eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice operating rules (hereinafter referred to as the HIPAA Credential).

Collectively, these constitute the submissions, and we refer to the requirements to submit them to the Secretary as the ''submission requirements.'' The submission requirements, as proposed in this rule, are a ''snap shot'' of a CHP's compliance with the standards and operating rules. Such information and documentation does not reflect continuing compliance, nor do we do intend the information or documentation to be updated or resubmitted on a regular basis.

We are not, at this time, proposing the specific format for the submission requirements. We will likely require a CHP to submit its number of covered lives through an online form. We may require an electronic version or copy of a Phase III CORE Seal or the HIPAA Credential to be submitted online, or we may ask for a tracking number that links to CAQH CORE records of such. Information about the mechanics for meeting the submission requirements for the first certification of compliance will be forthcoming at or near the time the final rule is published.

#### 1. Responsibilities of a CHP

As previously noted, in § 162.926 we propose that a CHP be responsible for submitting the following on behalf of itself and, if it has any, its SHP(s):

- The number of covered lives of a CHP: The number of ''covered lives of a CHP,'' as the term is proposed to be defined in § 162.103, would include the number of covered lives, if any, of a CHP's SHPs. (We discuss the definition of ''covered lives of a CHP'' in more detail in section II.B.1 of this proposed rule.) The CHP would be responsible for submitting its total number of covered lives as of the date it meets the submission requirements of § 162.926(a)(1) or (b)(1).
- Documentation that demonstrates the CHP has obtained either a Phase III CORE Seal or the HIPAA Credential.

In order to obtain the documentation for this submission requirement, a CHP, also representing all of its SHPs, would have to meet the CORE requirements necessary to obtain either a Phase III CORE Seal or the HIPAA Credential. We discuss this documentation requirement in more detail in section II.A.3 of this proposed rule.

We believe the proposal that the CHP be responsible for meeting the submission requirements for itself and its SHPs is consistent with the framework of the HPID final rule. A CHP is defined at § 162.103 as exercising sufficient control over its SHPs to direct its/their business activities, actions, or policies. We believe a CHP has sufficient control over its SHPs to require that it be responsible for the § 162.926 requirements for itself and its SHPs. As described in section II.B.1 of this proposed rule, the CHP would also be responsible for the penalty fees that may be assessed if it fails to meet the first certification of compliance's submission requirements as proposed in § 162.926.

We note that a CHP's proposed obligations under § 162.926 would not necessarily extend to other Administrative Simplification compliance or enforcement activities. Nothing in the provisions of this proposed rule would alter the requirement that all health plans must meet Administrative Simplification requirements per § 160.102. As health plans, SHPs are covered entities and independently responsible for ensuring they are compliant with the standards and operating rules, but, for purposes of this rule, we propose that the responsibility to meet the first certification of compliance submission requirements lies with the CHP.

We emphasize that state and federal government entities that meet the definition of a CHP must meet the requirements of this proposed rule and may be assessed penalty fees as described in the statute and in this rule; section 1173(h) of the Act provides no exemptions for state or federal government health plans.

#### 2. Proposed Submission Requirements: Number of Covered Lives of a CHP

Section 1173(j)(1) of the Act requires the Secretary to assess a penalty fee against a health plan that fails to meet the certification of compliance requirements of section 1173(h). Section 1173(j)(1) of the Act specifies the penalty fee amount, which is based on the covered lives of a health plan. Because we need to know the number of covered lives of a CHP (including the number of covered lives of its SHPs, if it has any) should circumstances require us to calculate penalty fees, we propose in § 162.926(a)(1) and (b)(1) to require CHPs to submit to the Secretary the number of covered lives of a CHP.

We propose that the number of covered lives of a CHP submitted pursuant to § 162.926(a)(1) and (b)(1) would be the number of covered lives as of the date the CHP submits the documentation proposed in § 162.926(a)(2) and (b)(2) to the Secretary. For example, if a CHP submits the documentation required by the first certification of compliance on January 1, 2015, then its submission would reflect its number of covered lives as of that date. In § 162.926 (and discussed in section II.A.7 of this proposed rule), we propose that a CHP would have up to 12 months prior to the certification of compliance deadlines to satisfy the submission requirements. The definition of the ''covered lives of a CHP'' is best explained in the context of the penalty fees, which we do in section II.B.1 of this proposed rule where we describe the calculation of penalty fees.

[16] The regulatory definition of health plan at 45 CFR 160.103 was initially adopted in the Transactions and Code Sets final rule. The basis for the additions to, and clarifications of, the statutory definition of health plan is further discussed in the preamble to the December 28, 2000 final rule (65 FR 82478 and 82576) titled ''Standards for Privacy of Individually Identifiable Health Information.''

3. Proposed Submission Requirements: HIPAA Credential or Phase III CORE Seal

We propose to require CHPs to choose among two options, the HIPAA Credential or a Phase III CORE Seal, as described in this section, to demonstrate compliance for the first certification of compliance.

There are any number of reasons why a CHP may elect to obtain one of these options over the other. A CHP will find that one or the other better aligns with the implementation process it uses to implement new operating rules.

a. Process and Requirements for Obtaining HIPAA Credential

We are proposing in § 162.926(a)(2) and (b)(2) that a CHP has the option of selecting the HIPAA Credential as one of two alternatives for meeting the first certification of compliance submission requirements. The HIPAA Credential is administered by CAQH CORE and demonstrates that a CHP has attested to compliance with HIPAA standards and operating rules for the eligibility for a health plan, health care claim status, and electronic funds transfers (EFT) and remittance advice transactions, and that the CHP has conducted a certain level of testing. CAQH CORE is currently developing the HIPAA Credential—which we expect to be finalized prior to the time we finalize this rule—and we describe here the expected process and requirements for obtaining it. Just as CAQH CORE provides explicit details about the CORE Seals on its Web site, we expect it will do the same for the HIPAA Credential. Should the final HIPAA Credential differ in any material way from the way we describe it herein, we would reopen the comment period for this topic to allow for further comment.

The scope of the HIPAA Credential would only encompass the HIPAA-mandated standards and operating rules. For example, we have not adopted HIPAA standards and operating rules for acknowledgements, therefore the HIPAA Credential would not require attestation or compliance with respect to standards and operating rules regarding acknowledgements.

To obtain the HIPAA Credential, a CHP would have to submit to CAQH CORE—

• The CAQH CORE HIPAA Attestation Form (similar to the form required for the CORE Certification process,[17] discussed in section II.A.3(b) of this proposed rule);

• An application form (similar to the form required to obtain a CORE Seal) with signature verifying that all forms have been submitted to CAQH CORE and indicating that HHS may view the application and associated forms if such a request is made to CAQH CORE; and

• An attestation form, with features or requirements that would include the following:

++ Attestation, in which the CHP confirms that it has successfully tested the operating rules for the eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice transactions with trading partners. For each of the three transactions, the CHP must confirm that the number of transactions conducted with those trading partners collectively accounts for at least 30 percent of the total number of transactions conducted with providers. For each of the three transactions, the CHP must confirm that it has successfully tested with at least three trading partners, but if the number of transactions conducted with three trading partners does not account for at least 30 percent of the total number of transactions conducted with providers, the CHP could confirm that it has successfully tested with up to 25 trading partners. The CHP would have to list those trading partners.

We do not define ''successfully tested'' in this proposed rule, or prescribe any specific kind or level of testing for the HIPAA Credential.

++ When a CHP attests that it has successfully tested with trading partners that, collectively, conduct at least 30 percent of the total number of transactions conducted with providers, it is representing itself and its SHPs. When calculating 30 percent of the transactions conducted with providers, the total of the CHP's and SHPs' transactions would be used.

++ The CHP would have to provide contact information, including, but not limited to, name, phone number, and email address, for each of the listed trading partners.

++ Trading partners may be transaction-specific. For example, a CHP may list the same or different trading partners for each of the three transactions, so a CHP may list three or more trading partners.

++ Trading partner testing would only be required for current HIPAA-mandated operating rules and standards, so trading partner testing would not be required for the use of acknowledgments, or optional aspects of standards.

In reviewing CHPs' HIPAA Credential application packages, CAQH CORE will likely identify applications containing obvious errors, and not award the HIPAA Credential based on such information. CAQH CORE will also identify when required information, such as trading partner contact information, is missing in the HIPAA Credential application package.

While CAQH CORE will likely identify obvious errors or missing information in the HIPAA Credential application package, CAQH CORE will not be responsible for addressing intent on the part of the CHP with regard to such errors or missing information. That is, CAQH CORE will not investigate what a CHP knew or didn't know when it submitted an inaccurate HIPAA Credential application package to CAQH CORE. Similarly, CAQH CORE will not address any claims that may be submitted to CAQH CORE about a CHP's intent behind any inaccuracies or incomplete information in a HIPAA Credential application; for example, CAQH CORE will not address claims that a CHP knowingly provided inaccurate or incomplete information in its HIPAA Credential application.

Other aspects of the HIPAA Credential include:

• Unlike the CORE Seals, it would only be offered to health plans.

• The HIPAA Credential would not have a requirement for certification testing, as is required for a Phase III CORE Seal. The HIPAA Credential would not have a requirement to test with a third-party testing vendor.

• The HIPAA Credential requires external testing; however, it does not require a specific approach to external testing, and, thus, does not directly support a consistent, industry-wide testing framework to the extent that a Phase III CORE Seal does. Thus, we view the HIPAA Credential as an initial step toward a consistent testing framework for CHPs that decide not to undergo the certification testing for a CORE Phase III Seal.

b. Process and Requirements for Obtaining a CORE Seal

The three current CAQH CORE Operating Rule sets are referred to as phases: Phase I is the operating rule set for the eligibility for a health plan transaction; Phase II includes operating rules for both the eligibility for a health plan and the health care claim status transaction; and Phase III is the

[17] *http://www.caqh.org/pdf/CLEAN5010/COREHIPAAForm.pdf, http://www.caqh.org/pdf/COREPIIHIPAAForm.pdf,* and *http://caqh.org/Host/CORE/EFT-ERA/CORE_PIII_HIPAA_Form.pdf, http://www.caqh.org/pdf/CLEAN5010/COREHIPAAForm.pdf, http://www.caqh.org/pdf/COREPIIHIPAAForm.pdf,* and *http://caqh.org/Host/CORE/EFT-ERA/CORE_PIII_HIPAA_Form.pdf* for the Phase I, II, and III CAQH CORE HIPAA Attestation Forms respectively.

operating rule set for the health care electronic funds transfers (EFT) and remittance advice transaction. The Secretary has adopted the sets as the operating rules for the respective transactions, with the exceptions we describe in section I.B.2 of this proposed rule.

CAQH CORE has developed separate certification testing requirements for each of the three phases of operating rules. Any health care entity that conducts the applicable electronic health care transactions may voluntarily undergo certification testing with an independent CORE-authorized testing vendor and a certification process through CORE to demonstrate compliance with the three phases. An entity that successfully completes the testing and submits the appropriate documentation to CAQH CORE is awarded a CORE Seal for the specific phase for which it tested. In order to be awarded a CORE Seal for all three phases, a CHP would be required to conduct certification testing for compliance with the requirements in Phases I, II, and III, which may be done chronologically or concurrently.

We are proposing a Phase III CORE Seal as one of two options a CHP may choose to meet the submission requirements of the first certification of compliance. The preparation required to apply for, and the documentation required in order to be awarded, a CORE Seal for each phase reflects the kind of consistent internal and external testing and documentation of compliance that we believe will ameliorate many of the challenges industry has recently faced during transitioning to new standards and operating rules.

Because we propose that CHPs may choose to obtain a CORE Seal to satisfy the requirements of proposed § 162.926(a)(2) or (b)(2), we describe the steps involved for entities to obtain a CORE Seal: [18] (1) Conduct a gap analysis by evaluating, planning, and completing necessary system upgrades; (2) sign and submit the CAQH CORE Pledge to make a commitment to become a CORE-certified entity within 180 days; (3) conduct testing through a CORE-authorized testing vendor; and (4) apply for a Phase III CORE Seal by submitting the proper documentation and fee to CAQH CORE for consideration. This four-step process is described in more detail as follows:

• Step 1: Conduct A Gap Analysis

Entities that implement the CAQH CORE Operating Rules conduct a gap analysis in order to determine what system and business process changes may be necessary to ensure their data and information systems are remediated to address any gaps between existing system requirements and CORE Operating Rule requirements. (Certification testing is described later in this section.) Project managers, business analysts, system analysts, architects, and other key staff conduct the gap analyses, which include an inventory of the systems affected by the specific phase of operating rules and the drafting of a detailed project plan. CORE provides an analysis and planning guide as a gap analysis tool for each of its current phases.[19]

• Step 2: Sign and Submit the CORE Pledge

An authorized, executive-level employee of the entity that is applying for any of the three CORE Seals signs a binding CORE Certification Pledge to adopt, implement, and comply with the CAQH CORE Operating Rules. By signing the pledge, an entity commits to working with a CORE-authorized Testing Vendor to demonstrate that its product(s) or IT system(s) is operating in accordance with a specific phase of the CORE Operating Rules. (We discuss CORE-authorized Testing Vendors in more depth in section II.A.2.d of this proposed rule.) Testing with a CORE-authorized Testing Vendor must be completed within 180 days of signing the pledge,[20] though extensions may be granted by signing and submitting a new pledge.

• Step 3: Testing by a CORE-authorized Testing Vendor using CORE Certification Master Test Suites (Certification Testing)

CAQH CORE developed documents called CORE Certification Master Test Suites (Test Suites) for each of its three operating rule phases. The phase-specific Test Suites are operating rule and documentation requirements that an entity must meet to be awarded a CORE Seal for that phase.

Test Scripts—which include a description of operating rule-by-operating rule requirements, as well as specific documentation or information necessary to demonstrate compliance with each operating rule requirement—are the primary tools in each phase-specific Test Suite. Tables 2 and 3 illustrate two examples of Test Scripts for two different operating rule requirements. Table 2 illustrates a test script from Phase I CORE 152 Companion Guide Rule Certification Testing and Table 3 illustrates a test script from Phase I CORE 154 Eligibility and Benefits (270/271) Data Content Rule Certification Testing. As illustrated by Table 2 and Table 3, each Test Script includes the following five columns:

• Column 1—The criteria or description of the requirements of the rule.

• Column 2—The expected result of a test of compliance with the rule. Entities upload documents or submit transaction files to CORE-authorized Testing Vendors that demonstrate they have met the requirements of each Test Script.

• Column 3—The actual result that the entity found upon testing the rule (that is, whether the expected outcome was achieved).

• Column 4—Indicates whether the entity was able to produce the expected result in terms of pass or fail.

• Column 5—Indicates which stakeholder would be required to produce the expected result.

For operating rules with requirements about data content, an entity would submit a transaction file to be tested in the CORE-authorized Testing Vendor's testing engine. Using the example of the Test Script illustrated in Table 3, an entity would be required to submit a transaction file, detailed in column 2, and receive a ''pass'' from the CORE-authorized Testing Vendor in column 4 indicating the file met the requirement.

In other cases, an entity would submit other types of documents that demonstrate the expected result of the Test Script. Using the example of the Test Script illustrated in Table 2, an entity would be required to submit an electronic version of the table of contents of its ASC X12 v5010 270/271 companion document, including an example of the ASC X12 v5010 270/271 content requirements,'' to the CORE-authorized Testing Vendor in order for the vendor to give a ''pass'' to that test.

The process of submitting documents or uploading files to CORE-authorized Testing Vendors is virtual, and an entity may access the CORE-authorized Testing Vendor's testing portal from a desktop computer.

The certification testing, described here as a key step in obtaining a CORE Seal, would be conducted after an entity has conducted internal and external testing of the operating rules. CORE's standardized certification testing demonstrates that a consistent and standard IT system testing has been completed. Therefore, certification testing, such as that which is described here, reflects our intent of supporting an

[18] Step-by step process for certification for Phase I and Phase II can be found at: *http://www.caqh.org/CORE_step_by_step.php.*

[19] *http://www.caqh.org/Host/CORE/CAQHCORE_Analysis&PlanningGuide.pdf* and *http://www.caqh.org/Host/CORE/CAQHCORE_EFT&ERA_Analysis&PlanningGuide.pdf.*

[20] *http://www.caqh.org/CORE_certification.php.*

industry-wide consistent trading partner testing process or framework.

TABLE 2—ILLUSTRATION A: SAMPLE TEST SCRIPTS FROM PHASE I CORE CERTIFICATION TEST SUITE SAMPLE TEST SCRIPT FOR PHASE I CORE 152 COMPANION GUIDE RULE CERTIFICATION TESTING

| Criteria | Expected result | Actual result | Pass/fail | | Stakeholder | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | Provider | Health plan | Clearing house | N/A |
| Companion Document conforms to the flow and format of the CORE master Companion Document Template. | Submission of the Table of Contents of the v5010 270/271 companion document, including a example of the v5010 270/271 content requirements. | ..... | ☐ Pass | ☐ Fail | ☐ | ☐ | ☐ | ☐ |

TABLE 3—ILLUSTRATION B: SAMPLE TEST SCRIPTS FROM PHASE I CORE CERTIFICATION TEST SUITE A TEST SCRIPT FROM PHASE I CORE 154 ELIGIBILITY AND BENEFITS (270/271) DATA CONTENT RULE CERTIFICATION TESTING

| Criteria | Expected result | Actual result | Pass/Fail | | Stakeholder | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | Provider | Health plan | Clearing house | N/A |
| Create a valid v5010 271 response transaction as defined in the CORE rule indicating the patient financial responsibility for each of the benefits covering the individual (Key Rule Requirement #6 through #18). | Output a valid fully enveloped v5010 271 eligibility response transaction set with the correct co-insurance, co-payment, and deductible patient financial responsibilities for both in/out of network in either EB08-954 or EB07-782 at either the subscriber loop 2110C or dependent loop 2100D levels. | ..... | ☐ Pass | ☐ Fail | ☐ | ☐ | ☐ | ☐ |

• Step 4: Apply for a CORE Seal

Once an entity successfully completes the certification testing with a CORE-authorized Testing Vendor, it submits an application package to CAQH CORE, and the CAQH CORE staff then reviews the application package prior to granting the appropriate CORE Seal. The application package includes the following:

++ Documentation from a CORE-authorized Testing Vendor demonstrating the entity's compliance with the phase-specific CAQH CORE Operating Rules through successful certification testing.

++ The CAQH CORE HIPAA Attestation Form, signed by a senior-level executive, indicating that, to the best of the applicant's knowledge, the entity is HIPAA compliant for security, privacy, and the transaction standards. This form is addressed in more detail in section II.A.3(c) of this proposed rule.

++ The CAQH CORE Health Plan IT Exemption Form, if applicable. This form and its relationship with the submission requirements of the first certification of compliance is discussed in section II.A.3(e) of this proposed rule.

++ The CAQH CORE Application. This form collects contact information for the individual responsible for the organization's CORE-certification process. The form also outlines the required materials for a complete CORE Certification Application, the process by which CAQH CORE will review and approve applications, and terms and conditions for CORE Certification.

++ A fee, as illustrated in Table 4.

Upon receipt of this documentation, CAQH CORE will complete a final assessment within 30 business days unless there are extenuating circumstances. CAQH CORE reviews test results and maintains records for each entity that is awarded a CORE Seal.

A health plan must be awarded a CORE Seal in a previous phase to be eligible for a subsequent phase's Seal.[21] For example, a health plan must be awarded a CORE Seal for Phase I and II Operating Rules in order to be eligible for a CORE Seal for Phase III Operating Rules. CAQH CORE provides the option of applying for and conducting certification testing for all three phases concurrently. In the context of the requirements for the first certification of compliance, this means that a CHP that chooses the option to submit a CORE Seal for Phase III Operating Rules will need to obtain CORE Seals for Phases I and II first, or concurrently.

We believe that the CORE Seal, obtained through the CORE certification process, is a reasonable and appropriate demonstration of compliance with the operating rules because—

• CAQH CORE develops its CORE Seal certification process through a multi-stakeholder approach. CAQH CORE is an industry-wide collaboration committed to the development and adoption of national operating rules for administrative transactions. The more than 140 CORE Participants represent all key stakeholders including providers, health plans, vendors, clearinghouses, government agencies, Medicaid, banks and standard development organizations. CAQH CORE draws on this representation to develop the requirements for CORE Certification (Test Suites and Test Scripts) through a transparent, consensus-based process. To our knowledge, no other entity currently has an equivalent multi-stakeholder process for developing certification testing for operating rules;

• Through the CORE-authorized Testing Vendor framework, CAQH CORE has created a marketplace for multiple commercial testing vendors to compete, while requiring CORE-authorized Testing Vendors to utilize standardized Test Scripts and specific submission requirements in testing entities. In its role as the ''certifier,'' in contrast to a ''tester,'' CAQH CORE maintains a third party position, independent from both the entity seeking the CORE Seal and the testing vendors with commercial interests. This

[21] See question #4, page 9 of 23 at *http://www.caqh.org/pdf/COREFAQsPartA.pdf.*

allows CAQH CORE to carry out the certifying process—and enforcement, appeals and exception policies and processes—in a neutral, transparent manner;

• CORE Certification is recognized as an Administrative Simplification tool for health plans and states. Currently, over 30 health plans have been awarded or have pledged to seek CORE Seals for Phases I, II, or III, or have pledged to seek the CORE Seal.[22] CORE Certification is also a crucial element in state-based health care reform initiatives in Oregon [23] and Colorado. Colorado, for example, requires that, ''[w]hen installing new operating systems after December 31, 2012, all carriers are required to use CORE-certified systems for communications, those systems which meet CORE certification standards, or contract with a vendor who has applied by January 1, 2013 to be CORE-certified.'' [24] The Colorado regulation also states that ''Phase I CORE certification shall be accepted as evidence of compliance'' with the CORE operating rules that the regulation also adopted; [25] and

• CAQH CORE's Certification Infrastructure. CAQH CORE's infrastructure includes: robust on-line and live support for entities during the certification process; a complaint-driven enforcement mechanism that identifies instances of non-compliance; an exemption policy and process; a re-certification process; and an appeals process allowing an entity to request a hearing if it disagrees with CAQH CORE's decision of non-compliance.

We request comments on a Phase III CORE Seal as an option for CHPS to meet the documentation requirements for the first certification of compliance.

c. CAQH CORE HIPAA Attestation Forms as Documentation of Compliance With the HIPAA Standards

In order to obtain a CORE Seal for each of the operating rule phases, an entity must sign the CAQH CORE HIPAA Attestation Form by which it attests to compliance with applicable HIPAA transaction provisions, and the HIPAA privacy and security provisions, of 45 CFR Parts 160, 162, and 164. We anticipate that CAQH CORE's HIPAA Credential application process will similarly require such an attestation for the HIPAA Credential, and we find such an attestation to be an essential document of compliance for purposes of the first certification of compliance. We note that, attesting to compliance with the HIPAA privacy and security provisions or obtaining a CORE Seal (or the HIPAA Credential) does not prevent or preclude the Office for Civil Rights from conducting HIPAA Privacy or Security Rules investigations, compliance reviews or audits; settling cases; making findings of non-compliance; or imposing civil money penalties for HIPAA violations.

The proposed submission requirements of § 162.926(a)(2) and (b)(2) demonstrate a CHP is compliant with applicable standards and operating rules. We considered proposing a framework by which CHPs would demonstrate compliance with applicable standards styled similarly to the proposed framework for demonstrating compliance with operating rules. That is, we considered requiring a CHP to obtain documentation from a third-party demonstrating it has conducted external testing with the standards adopted for the eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice transactions. At this time, however, we believe CAQH CORE's HIPAA Attestation Form satisfies the section 1173(h)(2) mandate that health plans submit adequate documentation of compliance with the applicable standards for purposes of the first certification of compliance. We chose this approach because we—

• Believe that requiring just the CAQH CORE HIPAA Attestation Form minimizes CHPs' burdens in complying with the first certification submission requirements, while not altering or undermining the statutory requirements or our objectives in ensuring compliance; and

• Are not aware of existing programs that demonstrate consistent testing for compliance with the standards that parallel the proposed process for certifying health plans for compliance with the operating rules. There may be commercial entities that ''certify'' entities as being compliant with the standards, but we do not know of any that have developed a standards certification process, certification testing, or certification infrastructure with significant participation from industry.

We also recognize that, while the HIPAA Credential option relies on entities having successfully conducted testing with trading partners, it does not directly support a consistent, industry-wide testing framework of new standards and operating rules. We view the first certification of compliance submission requirements as an initial step in that direction. We solicit comments on our assumptions and proposed approach.

d. CAQH CORE Documentation and Policies

We are proposing that CHPs may choose between two CAQH CORE documents—a Phase III CORE Seal or the HIPAA Credential—to demonstrate compliance for the first certification of compliance. We believe either of these documents through CAQH CORE is a reasonable approach because CAQH CORE—

• Is recognized as a technical expert in the implementation of operating rules and supports the standards for those transactions to which the operating rules apply, adopted by the Secretary (after a vetting process discussed in section I.B.2 of this proposed rule). CAQH CORE is the authoring entity of the operating rules and is, therefore, well-versed in the operating rules and their interpretation and implementation, and how they coordinate with the adopted standards;

• Has infrastructure to reach out to, and educate, CHPs that will be required by this proposed rule to obtain either a Phase III CORE Seal or HIPAA Credential; and

• Has the ability to convene workgroups with significant and diverse health care industry participation to continually inform, and, where appropriate, improve processes associated with the CORE Seal and HIPAA Credential products.

We solicit comments on our proposal to limit CHPs' options to documents obtained through processes governed by CAQH CORE.

e. CAQH CORE's Exemption and Enforcement Policies as Applied to the Proposed Submission Requirements

(1) CAQH CORE Certification Exemption Policies

Under proposed § 162.926(a)(2) and (b)(2), we specify that a CHP may not be under the CORE IT Exemption Policy at the time of submission with regard to the CORE Phase I, II, or III CORE Seals

[22] For updated information on entities that have CORE-certification or have committed to receive CORE-certification, please refer to *http://www.caqh.org/CORE_organizations.php.*

[23] O.A.R. 836–100–0115(1): *http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_836/836_100.html.*

[24] 3 CCR 702–4–2–32: *http://cdn.colorado.gov/cs/Satellite?blobcol=urldata&blobheadername1=Content-Disposition&blobheadername2=Content-Type&blobheadervalue1=inline%3B+filename%3D%224–2–32+Standardized+Electronic+Identification+And+Communication+Systems+Guidelines+For+Health+Benefit+Plans.pdf%22&blobheadervalue2=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251823308663&ssbinary=true.*

[25] Ibid., Section 5.

that the CHP uses to meet the submission requirements.[26]

CAQH CORE's Certification Exemption Policy enables a health plan, in certain situations, to be awarded a CORE Seal for a particular phase even if all of its IT systems do not pass the Test Scripts for that phase. So long as the remainder of a health plan's IT systems are compliant, CAQH CORE may grant a health plan a Health Plan IT System Exemption if it has a scheduled migration, within the upcoming 12 months, of an existing, non-conforming IT system(s).[27] Subsequent to the migration(s), CAQH CORE requires the health plan to submit documentation demonstrating the new IT system(s) complies with the operating rules, standards, and other items required by CORE Certification.[28]

Although a health plan may obtain a CORE Seal under such a CAQH CORE exemption, we make clear in § 162.926(a)(2) and (b)(2) that, on the date a CHP submits documentation to meet the submission requirements of the first certification of compliance, it may not be under such an exemption with respect to the CORE Phase I, II, or III Seals. To be clear, a CHP may receive a CORE Seal under CAQH CORE's Health Plan IT System Exemption policy. However, a CHP that receives a CORE Seal under CAQH CORE's Health Plan IT System Exemption must no longer be exempted on the date it provides its submissions to the Secretary in order to meet the first certification of compliance requirements.

CAQH CORE's Health Plan IT System Exemption Policy does not apply to the HIPAA Credential, so a health plan's systems must be fully compliant with the applicable operating rules to obtain the HIPAA Credential.

(2) CORE Enforcement Policy

CAQH CORE's Enforcement Policy [29] is a complaint driven process that, under the guidance of the CORE Enforcement Committee comprised of CAQH CORE participants, reviews complaints for completeness and timeliness, and verifies or dismisses complaints.

CAQH CORE's Enforcement Policy applies to its CORE Seal product (not the HIPAA Credential), and thus would apply to CHPs that elect to obtain a Phase III CORE Seal to fulfill the submission requirements proposed in this rule.

(3) A CHP Is Decertified by CORE

CAQH CORE's policies specify a number of circumstances by which an entity may be ''decertified,'' could ''lose'' its CORE Seal, or have its certification ''terminated'' because of instances of noncompliance with the operating rules for which it is certified. One such policy with this possible consequence is the CAQH CORE IT Exemption Policy, described in section II.A.3 (e) of this proposed rule, whereby a health plan that has obtained a CORE Seal under the policy may be decertified if its new IT system fails to pass the applicable Test Scripts within a prescribed timeframe.[30] Similarly, CAQH CORE's Enforcement Policy specifies that an entity with a CORE Seal may be decertified if it is found to be out of compliance with an operating rule(s) or standard if the violation is not remedied within the allowed grace period.[31]

As discussed previously, on the date a CHP submits its documentation, none of the CHP's CORE Seals may be terminated or the CHP decertified by CAQH CORE.

In keeping with the ''snap shot'' approach described in section II.A. of this proposed rule, we will not track the status of a CHP's CORE Certification (that is, whether it has been terminated or has come under the CAQH CORE IT Exemption Policy) subsequent to the date it meets the proposed submission requirements.[32]

(4) CHP's Responsibilities With Respect to Entities Conducting Transactions on Its Behalf

Section 1173(h)(3) of the Act requires a health plan to ''ensure that any entities that provide services pursuant to a contract with such health plan shall comply with any applicable certification and compliance requirements (and provide the Secretary with adequate documentation of such compliance) under this subsection.'' Because section 1173(h) of the Act is concerned with certification of compliance with the HIPAA standards and operating rules, we believe ''services pursuant to contract'' means services provided by business associates (BAs), as that term is defined at § 160.103, that are contracted to conduct all or part of a HIPAA transaction on behalf of a health plan.

Although we considered requiring CHPs to require their BAs to comply directly with the requirements of § 162.926, we are not pursuing that option. Rather, when a CHP submits documentation in accordance with the submission requirements of § 162.926, we believe that, by virtue of meeting the requirements of § 162.923(c) (which requires covered entities that use BAs to conduct transactions on their behalf to require those BAs to comply with the requirements of part 162), it will be certifying that its, and its SHP(s)', BAs that conduct all or part of a HIPAA transactions on its/their behalf are compliant with the HIPAA standards and operating rules. We do not believe section 1173(h)(3) of the Act places any new requirements or burdens on health plans with regard to their BAs that are not already accounted for in § 162.923(c).

Under CAQH CORE policy, to obtain a CORE Seal, a health plan must demonstrate that entities or vendor products that conduct all or part of a transaction related to a CAQH CORE are compliant with the operating rules.[33] This CAQH CORE policy on non-health plan entities that conduct all or part of a transaction related to a CAQH CORE phase on behalf of a health plan aligns with our approach to BAs that conduct part or all of a transaction on behalf of a CHP or its SHPs. Likewise, as we have described here, if a BA that is not a health plan conducts all or part of a transaction on behalf of the CHP or its SHP(s), then the CHP is responsible for ensuring the entity conducts any HIPAA standard transactions in accord with

[26] For Phases I, II, and III, *CORE* addresses certification exemptions at: *http://www.caqh.org/pdf/CLEAN5010/103.pdf*, *http://www.caqh.org/pdf/CLEAN5010/203.pdf* and *http://caqh.org/Host/CORE/EFT-ERA/303_Exemption_Policy.pdf* Forms at: *http://www.caqh.org/pdf/CLEAN5010/COREPII_ITExemptionRequestForm.pdf, http://www.caqh.org/pdf/CLEAN5010/103.pdf*, and *http://caqh.org/Host/CORE/EFT-ERA/303_Exemption_Policy.pdf* for Phases I, II and III.

[27] These exempted IT systems must serve no more than 30 percent of the health plan's membership or applicable transactions.

[28] For Phases I, II, and III, CORE addresses certification exemptions at: *http://www.caqh.org/pdf/CLEAN5010/103.pdf*, *http://www.caqh.org/pdf/CLEAN5010/203.pdf* and *http://caqh.org/Host/CORE/EFT-ERA/303_Exemption_Policy.pdf.*

[29] See *http://www.caqh.org/pdf/CLEAN5010/105.pdf*, *http://www.caqh.org/pdf/CLEAN5010/205.pdf*, and *http://caqh.org/Host/CORE/EFT-ERA/305_Enforcement_Policy.pdf* for Phase I, II, and III enforcement policies.

[30] *http://www.caqh.org/pdf/CLEAN5010/103.pdf, http://caqh.org/Host/CORE/EFT-ERA/303_Exemption_Policy.pdf, http://www.caqh.org/pdf/CLEAN5010/103.pdf,* and *http://www.caqh.org/pdf/CLEAN5010/203.pdf.*

[31] *http://www.caqh.org/pdf/CLEAN5010/105.pdf, http://www.caqh.org/pdf/CLEAN5010/205.pdf,* and *http://caqh.org/Host/CORE/EFT-ERA/305_Enforcement_Policy.pdf.*

[32] However, to be clear, health plans are covered entities obligated to continually abide by adopted HIPAA standards and operating rules, and the requirements of this proposed rule do not impede our enforcement authority.

[33] See CAQH CORE FAQs on CORE Certification & Endorsement: *http://www.caqh.org/pdf/COREFAQsPartF.pdf.*

any applicable HIPAA transactions standards and operating rules.

As noted previously, CAQH CORE requires that any health plan wishing to obtain a CORE Seal that is dependent on a BA—for the health plan to meet one or more of the CORE operating rule requirements—must have that BA achieve CORE certification. Similarly, if the health plan is dependent on a software vendor to meet one or more of the CORE rule requirements, then the vendor's product name and vendor must be CORE-certified.

(5) Documentation Demonstrating End-to-End Testing

Section 1173(h)(2)(B) of the Act states that a health plan shall not be considered to have provided adequate documentation of compliance unless it ''provides documentation showing that [it] has completed end-to-end testing for such transactions with [its] partners, such as hospitals and physicians.''

Even outside the context of health plan certification, the meaning of the phrase ''end-to-end testing''—as well as the types of testing necessary for successful transitions to new or revised standards, code sets, or operating rules—is presently the subject of active discussion in the health care industry. HHS, through the Office of E-Health Standards and Services (OESS), is conducting a pilot that seeks to develop a process and methodology for testing the transaction standards, operating rules, code sets, identifiers, and other Administrative Simplification requirements based on industry feedback and participation. One of the goals of that effort is to establish a definition for end-to-end testing in this context that can be applied industry-wide.

Although we know of no standard definition for end-to-end testing at this time, we believe the concept of end-to-end testing likely requires, at a minimum, external testing with trading partners. We emphasize that in order to obtain either a Phase III CORE Seal or the HIPAA Credential, some external testing is required. Note that certification testing, as is required to obtain a CORE Seal, is not the same as internal or external testing. However, certification testing includes submitting documentation that demonstrates certain levels of internal and external testing have taken place. By contrast, the HIPAA Credential directly requires external testing with trading partners. Thus, we believe CHPs that meet the submission requirements proposed in this rule meet the section 1173(h)(2)(B) of the Act's requirement.

(6) Other Considerations About CORE Certification

(a) Cost of CORE Seal and CORE HIPAA Credential

CAQH CORE charges entities a fee, on a sliding scale according to net annual revenue, for administering and awarding CORE Seals. Table 4 illustrates the current fees that CAQH CORE charges a health plan. Table 4 reflects the total costs for a CHP to obtain three CORE Seals, one for each CAQH CORE Operating Rule phase.[34] The fees to obtain the CORE Seals do not include the cost for certification testing with a CORE-authorized testing vendor.[35]

Table 4 also illustrates the approximate fees that we expect CAQH CORE will charge CHPs for the HIPAA Credential it is currently developing.

CAQH CORE does not charge federal and state government entities for the CORE Seals, but we expect federal or state government entities will be charged $100 to obtain the HIPAA Credential.

TABLE 4—CAQH CORE FEES FOR CORE SEAL AND HIPAA CREDENTIAL

| Size of health plan | Fee for HIPAA credential | Fee for CAQH Phase III CORE Seal including Phase I and II Seals |
|---|---|---|
| Federal and State government health plans | $100 | No charge. |
| CAQH Member Plans | No charge | No charge. |
| Below $5 million in net annual revenue | $100 | $12,000 ($4,000 per phase). |
| $5 million to below $25 million net annual revenue | $1,000. | |
| $25 million to below $50 million net annual revenue | $2,000. | |
| $50 million to below $75 million net annual revenue | $4,000. | |
| $75 million and above net annual revenue | | $18,000 ($6,000 per phase). |

(b) Treatment of Acknowledgements

We have previously stated in both the Operating Rules IFC and the EFT & ERA Operating Rules IFC that we do not require covered entities to comply with any CAQH CORE Operating Rule requirements pertaining to acknowledgments in Phases I, II, and III (§ 162.1203, § 162.1403, and § 162.1603). However, each of CORE's three phase-specific Test Suites require that applicants demonstrate compliance with acknowledgments-related operating rules. CHPs that seek to obtain a Phase III CORE Seal will be bound by CAQH CORE's requirements; in other words, the fact that HHS does not require compliance with acknowledgments-related operating rules does not relieve the burden of CHPs seeking a CORE seal to abide by CAQH CORE's requirements.

By contrast, the requirements underlying CAQH CORE's HIPAA Credential will only apply to the operating rules adopted by the Secretary, so CHPs will not have to comply with the acknowledgements operating rules to obtain the HIPAA Credential.

(7) Compliance Timelines for CHPs To Meet Submission Requirements for the First Certification of Compliance

(a) CHPs That Obtain an HPID Before January 1, 2015

(i) Submit Documentation by December 31, 2015

In § 162.926(a), we propose that a CHP that obtains an HPID before January 1, 2015, would be required to meet the submission requirements (proposed in section II.A of this proposed rule) for the first certification of compliance on or before December 31, 2015. See Table 5, Row 1. Per the requirements of § 162.504, all CHPs (except those that are small health

[34] The current CORE fee structure for the CORE Seal can be found at: *http://www.caqh.org/CORE_phase1_fees.php.*

[35] As of this writing, the single CORE-authorized testing vendor does not charge a fee for entities to test with it.

plans) must obtain HPIDs on or before November 5, 2014. CHPS that are small health plans must obtain HPIDs on or before November 5, 2015. Based on our analysis, we think very few health plans meet the definition of a small health plan,[36] so we anticipate most CHPs will have obtained HPIDs on or before November 5, 2014.

We propose a different date (December 31, 2015) than that in section 1173(h)(1) of the Act (December 31, 2013) for most CHPs to meet the first certification of compliance requirements because we believe, for the following reasons, CHPs will likely need until the end of 2015 to meet the requirements for the first certification of compliance:

• In section II.A.3(b) of this proposed rule, we discuss the steps a CHP would have to take in order to obtain a CORE Phase III Seal, should it elect to pursue that option. We believe the deadlines proposed in this rule offer CHPs adequate time to complete the gap analysis (planning and evaluation, design and development, and internal and external testing) and subsequent certification testing with a CORE-authorized testing vendor necessary to obtain CORE Seals for Phase I, II, and III Operating Rules. CAQH CORE suggests it will take 20 to 60 days of staff time to conduct certification testing with a CORE-authorized testing vendor and complete and submit one CORE Seal Application packet.[37] A CHP may also choose to simultaneously pursue CORE Seals for all three phases. Therefore, for CHPs that do not now have, but choose to obtain, a Phase III CORE Seal, it could take up to 180 days to obtain Seals for all three operating rules phases, not including any time that CORE requires to review applications.

• In section II.A.3(a) of this proposed rule, we discuss the broad requirements of the HIPAA Credential. Like a Phase III CORE Seal, it will take some time to meet the requirements for the HIPAA Credential, though many CHPs may have already met the testing requirements.

• In section II.A.1 of this proposed rule, we propose that a CHP, in meeting the submission requirements for the first certification of compliance requirements, will demonstrate not only that it is compliant with operating rules and standards, but that its SHP(s), if it has any, are compliant. This task will also take time.

• October 1, 2014 is the compliance date for the International Classification of Diseases, 10th Edition (ICD–10) Medical Data Code Sets. Facilitating the health care industry's smooth transition to ICD–10 is of paramount importance, and health plans need to prepare and fully test their systems to ensure a smooth and coordinated transition. We expect health plans to be dedicating significant resources towards the ICD–10 transition prior to, and for a time after, the compliance date, which transition may require participation from the same human and IT resources as will be necessary to meet the first certification of compliance submission requirements. We believe the proposed December 31, 2015 deadline for completing the first certification of compliance requirements would allow sufficient time for health plans to deploy resources to make both initiatives successful.

Furthermore, the December 31, 2015 date aligns with the requirement for a CHP to obtain an HPID, as all CHPs must obtain an HPID on or before November 5, 2015. Moreover, by virtue of this alignment of dates, we will have a database of all CHPs that will be required to meet the submission requirements proposed in this rule on or before December 31, 2015, and thus should be able to identify any CHPs that do not meet the submission requirements proposed in this rule.

As noted in section I.C of this proposed rule, our goal with the first certification of compliance is to help move the health care industry incrementally toward consistent testing processes in order to transition as seamlessly as possible to new standards or operating rules. We believe a certification of compliance process that penalizes more CHPs than it incentivizes to carry out testing would not accomplish this goal and, for the reasons previously articulated, we believe it would be unreasonable to require CHPs to abide by the statutory date of December 31, 2013. To be clear, however, this does not mean CHPs may delay compliance with the operating rules beyond their respective compliance dates. All covered entities were required to be compliant with the operating rules for the eligibility for a health plan and health care claim status transactions on January 1, 2013,[38] and must be compliant with the EFT & ERA Operating Rule Set adopted for health care electronic funds transfers (EFT) and remittance advice transactions on January 1, 2014. Those compliance requirements and dates continue to govern HHS's separate HIPAA enforcement processes.

(2) Date When CHPs Can Begin Submitting Information and Documentation

We propose that a CHP that obtains an HPID before January 1, 2015 may begin to meet the submission requirements of proposed § 162.926(a) on January 1, 2015; this is the ''start date'' by when we will be ready to accept the submission of documents. This does not mean a CHP must obtain a CORE Phase III Seal or HIPAA Credential during the period of January 1, 2015 through December 31, 2015, as the CHP could be awarded either one earlier. For example, a CHP that has been awarded a CORE Phase III Seal prior to January 1, 2015, would already have the documentation required under this proposed rule, which it would then submit on or after January 1, 2015, and on or before December 31, 2015.

(b) CHPs That Obtain an HPID On or After January 1, 2015 and On or Before December 31, 2016

We propose in § 162.926(b) that a CHP that obtains an HPID on or after January 1, 2015, and on or before December 31, 2016 would be required to meet the submission requirements for the first certification of compliance within 365 calendar days of obtaining an HPID (see Table 5, Row 2).

Under § 162.504, any large or small health plans now extant that meet the definition of a CHP must obtain an HPID on or before November 5, 2015, thus any health plans enumerated as CHPs after November 5, 2015 are likely new CHPs. We propose that such CHPs be allowed one year from the time they obtain an HPID to submit the documentation proposed in § 162.926(b). CHPs that obtain HPIDs on or after January 1, 2015 and on or before December 31, 2016 will have to: Coordinate with their SHP(s), if applicable; gather the appropriate documentation to complete certification testing, and apply for a Phase III CORE Seal or HIPAA Credential; and meet the documentation submission requirements for the first certification of compliance. We believe one year from obtaining an HPID will be adequate for

[36] In the HPID proposed rule, we concluded there were approximately 138 health maintenance organizations that were small entities by virtue of their nonprofit status though ''few, if any of them are small by SBA size standards'' (77 FR 23000) and that no other category of health plan could be considered ''small'' (77 FR 22999). Our conclusions were based on an analysis included in a proposed rule on the establishment of the Medicare Advantage program (69 FR 46866, August 3, 2004).

[37] See FAQ #11 at *http://www.caqh.org/pdf/COREFAQsPartA.pdf*.

[38] Early in 2013, CMS announced a 90-day enforcement discretion period for compliance with the Operating Rules IFC stating that it would not initiate enforcement action until March 31, 2013. See *http://www.cms.gov/Outreach-and-Education/Outreach/OpenDoorForums/Downloads/010213Sec1104ofACAAnnouncement.pdf*.

a new CHP to complete that process, but solicit comments on this assumption.

We propose that a CHP that obtains an HPID after December 31, 2016 would not be required to meet the requirements proposed in this rule for the first certification of compliance (see Table 5, Row 3). A CHP that obtains an HPID after December 31, 2016, if given the same time to meet the requirements as CHPs that obtain HPIDs on or before December 31, 2016, would be meeting the requirements into 2018. There are too many unknowns that far into the future for us to establish requirements for this category of CHPs. For instance, we may have adopted new or modified versions of the standards and operating rules for the eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice transactions. We may address requirements for a CHP that obtains an HPID after December 31, 2016 for the first certification of compliance in a later rule.

We solicit industry and stakeholder comments on our proposed certification of compliance dates.

TABLE 5—COMPARISON OF OPERATING RULE SETS COMPLIANCE DATES, THE STATUTORY DEADLINES FOR COMPLETING THE FIRST CERTIFICATION OF COMPLIANCE REQUIREMENTS, AND THE PROPOSED DEADLINES FOR COMPLETING THE FIRST CERTIFICATION OF COMPLIANCE REQUIREMENTS

| | Col 1 | Col 2 | Col 3 |
|---|---|---|---|
| Operating rule sets | Compliance date for health plans to comply with the operating rules | Deadline for health plans to meet first certification of compliance requirements *as mandated by section 1173(h)(1) of the Act* | Deadlines for health plans* to meet first certification of compliance requirements *as proposed in this rule* |
| Eligibility for a health plan | January 1, 2013 | December 31, 2013 | *December 31, 2015* for CHPs that obtain an HPID before January 1, 2015. *Within 365 calendar days of obtaining an HPID* for CHPs that obtain their HPID on or after January 1, 2015 and on or before December 31, 2016. |
| Health care claim status | | | |
| Health care electronic funds transfers (EFT) and remittance advice. | January 1, 2014. | | |

* Requirements for CHPs that obtain their HPID after December 31, 2016 are not addressed in this proposed rule.

*B. Certification of Compliance Penalty Fees*

1. Calculating Penalty Fees: Defining Covered Lives of a CHP and Major Medical Policies

Section 1173(j)(1) of the Act specifies that the penalty fee amount assessed when a health plan does not meet the certification of compliance requirements is based on its number of covered lives. So that we may calculate the potential penalty fee amount should we find a violation(s) of the first certification of compliance, we must know the number of covered lives of a CHP.

Section 1173(j)(1)(F) of the Act requires the Secretary to determine the number of covered lives under a health plan ''based upon the most recent statements and filings that have been submitted by such plan to the Securities and Exchange Commission'' (SEC). We have learned, however, that the SEC only collects data from publicly traded health plans (that represent a mere subset of the total number of health plans),[39] and, even then, health plans submitting filings to the SEC are not required to include in such filings the number of ''covered lives'' or any comparable measure. Some health plans may volunteer this information in a descriptive text section of a filing called the 10–K, used to describe the business and its attributes, but this is not a requirement of the 10–K.[40] In fact, according to a 2007 study on enrollment in U.S. health insurance products, ''[t]here is no national databank containing enrollment figures for all the public and private health insurers in the United States, nor is there a single database linking all the federal programs.'' [41]

Therefore, we propose to use the number of covered lives the CHP reports in accordance with the proposed submission requirements under § 160.926(a)(1) and (b)(1) as the primary source for the number of covered lives to calculate penalty fees. Should a CHP fail to include the number of covered lives as part of its § 162.926 submission, or should we have reason to question the CHP's number of self-reported covered lives, we may undertake an independent investigation through means that may include, but would not be limited to: Analyzing recent filings, if any, submitted by the CHP to the SEC; and researching data bases or publicly available documents such as news articles, reports, advertisements, brochures, and Web pages where the number of covered lives of a CHP is referenced or estimated.

In § 162.103, we propose to define ''covered lives of a CHP'' as individuals covered by or enrolled in major medical policies of a CHP and the SHP(s) of that CHP. Individuals may be described in such major medical policies by terms, including, but not limited to the following:—

- Individuals.
- Spouses.
- Dependents.
- Employees.
- Subscribers.
- Policyholders.
- Medicaid recipients.
- Medicare beneficiaries.
- Tricare beneficiaries.
- Veterans.
- Survivors.

In section II.B.1 of this proposed rule, we discuss in more detail how the definition of covered lives of a CHP would be used to calculate penalty fees. We include spouses, partners, and dependents in the proposed definition to make clear that covered lives of a CHP includes more than just the policyholder, and encompasses all individuals covered by major medical

[39] For information on the SEC's role, see *http://www.sec.gov/about/whatwedo.shtml.*

[40] 10–K filings and other publically available company filings can be viewed through the EDGAR database: *http://www.sec.gov/edgar/searchedgar/companysearch.html.* For more information on the 10–K see *http://www.sec.gov/answers/form10k.htm.* For the 10–K form itself: *http://www.sec.gov/about/forms/form10-k.pdf.*

[41] ''Health Care Delivery Covered Lives—Summary of Findings,'' John F. Kennedy School of Government: Harvard University, Mossavar-Rahmani Center for Business & Government (*http://www.hks.harvard.edu/m-rcbg/hcdp/numbers/Covered%20Lives%20Summary.pdf*).

policies, and also include in the definition examples of terms that government payers may use to describe their covered lives.

Within the definition, we clarify that covered lives includes only those individuals enrolled in major medical policies. Section 1173(j)(1)(B) of the Act states that penalty fees may only be assessed for persons ''covered by the plan for which its data systems for major medical policies are not in compliance.'' We only include individuals enrolled in major medical policies in the definition since individuals that are not covered by such policies will not be included in the calculation of the penalty fee. In cases in which an individual is covered by both a major medical policy and another policy/(ies) that does not meet the definition of major medical policy, the definition contemplates that such individual would be considered a covered life of a CHP.

In § 160.604, we propose that, for purposes of this proposed rule, ''major medical policy'' be defined as ''an insurance policy that covers accident and sickness and provides outpatient, hospital, medical, and surgical expense coverage.'' We developed this definition by surveying how the term major medical policy is defined in various contexts.

To be clear, we propose in § 162.926 that all CHPs, irrespective of whether they issue major medical policies, must meet the first certification submission requirements. However, only CHPs with major medical policies may be assessed penalty fees. Moreover, should a CHP be assessed a penalty fee, the basis for the assessment calculation would be using only those covered lives that are covered or enrolled in a major medical policy.

We indicate in the definition that covered lives of a CHP includes the covered lives of the CHP, and, if it has any, its SHP(s). We include the covered lives of any SHP(s) of the CHP because, under the provisions discussed in section II.A.1 of this proposed rule, the submission requirements and applicable penalty fees are the CHP's, not its SHP's, responsibility.

We intend to only include those individuals who are enrolled in or covered by health insurance in the definition of covered lives of a CHP, as opposed to those individuals who are merely eligible, but not enrolled or covered.

We propose to use the phrase ''covered by or enrolled in'' to indicate a distinction that is sometimes made—but that we are not making here—between voluntary enrollment or automatic coverage in a health plan. That is, irrespective of the actions of an individual, we would consider an individual who has major medical coverage under a health plan to be a covered life of a CHP. For example, we would consider an individual who is automatically enrolled in Medicare Part A upon turning 65 years old to be a covered life of Medicare.

We solicit comments on the proposed definition of covered lives of a CHP and the definition of major medical policy.

2. Basis for the Assessment of a Penalty Fee and the Amount of the Penalty Fee

Section 1173(j)(1)(B) of the Act requires the Secretary to assess a penalty fee against a health plan in the amount of $1 per covered life per day until certification is complete. Section 1173(j)(1)(C) of the Act requires the Secretary to double the amount of the penalty fee assessed against a health plan that knowingly provided inaccurate or incomplete information in certifying compliance. Section 1173(j)(1)(E) of the Act caps the penalties that may be imposed on a health plan, providing that a penalty fee against a health plan shall not exceed, on an annual basis, an amount equal to $20 per covered life under such plan, or an amount equal to $40 per covered life where misrepresentation has occurred under section 1173(j)(1)(C) of the Act.

In § 160.612, we propose the bases for assessing penalty fees and, in § 160.614, we propose the amounts of penalty fees that would be assessed. We think the bases for penalty fees that we propose in § 160.612 and the amount of the penalty fee proposed in § 160.614 are sufficiently intertwined so that it is more effective to describe the proposed provisions together.

a. Failure To Submit Required Documentation by the Deadlines

In § 160.612(a), we propose that the Secretary would assess a penalty fee against a CHP that fails to comply with the submission requirements specified in § 162.926(a)(2) or (b)(2). This means the Secretary would assess a penalty fee when a CHP fails to provide the documentation that demonstrates the CHP has been awarded a Phase III CORE Seal or the HIPAA Credential.

The basis for the penalty fee proposed in § 160.612(a) would apply when a CHP does not provide the required documentation at all, or does so after the deadlines specified in § 162.926(a)(2) or (b)(2). A CHP that does not provide the required documentation by the deadlines would be assessed $1 per covered life of the CHP per day until the requirements of § 162.926 have been met, and as limited by the cap described by proposed § 160.614(a)(1). For example, if a CHP with 100 covered lives enrolled in major medical policies obtains an HPID before January 1, 2015 and then submits the required documentation in § 162.926 on January 1, 2016—1 day past December 31, 2015 (the deadline that would be required under § 162.926(a))—the CHP would be assessed a penalty fee of $1 per covered life of the CHP, for a penalty fee totaling $100.

In § 160.614(a), we propose that a CHP that is assessed a penalty fee under § 160.612(a)—failure to provide the required documentation according to the deadlines in § 162.926(a)(2) or (b)(2)—may not be assessed a penalty fee that exceeds $20 per covered life of the CHP. For example, a CHP that obtains an HPID before January 1, 2015 that fails to make the required submissions on or before December 31, 2015 would, starting January 1, 2016, be assessed a $1 per covered life penalty fee that, per section 1173(j)(1)(E)(i) of the Act as implemented by proposed § 160.614(a)(1), would reach its maximum, and be capped, on January 21, 2016 at $20 per covered life of the CHP. The same maximum penalty cap would apply in instances where a CHP fails to ever provide the required documentation.

We will utilize all reasonable means to ensure that CHPs satisfy their obligations under this proposed rule. Because all CHPs are required to obtain an HPID, we will, for example, once this proposed rule is finalized and implemented, compare a roster of the CHPs that have satisfied the requirements of the rule with a roster of CHPs that have obtained HPIDs. Moreover, we note that section 1173(j)(3) of the Act requires us to report unpaid penalty fees to the Secretary of the Treasury and that unpaid penalty fees, per section 1173(j)(4)(D) of the Act, shall be increased by the interest accrued.

We solicit comments on our proposal for assessing penalty fees for CHPs.

b. Knowingly Providing Inaccurate or Incomplete Information

The penalty fee for knowingly providing inaccurate or incomplete information that we propose in § 160.612(b) implements section 1173(j)(1)(C) of the Act, which provides that a ''health plan that knowingly provides inaccurate or incomplete information in a statement of certification or documentation of compliance . . . shall be subject to a penalty fee that is double the amount that would otherwise be imposed.''

In § 160.612(b), we propose that a basis for assessment of a penalty fee is providing inaccurate or incomplete information with actual knowledge of the inaccuracy or the incompleteness of the information, or acting in deliberate ignorance or reckless disregard of the accuracy or completeness of the information. We clarify in § 160.612(b) that information may be in the form of statements, in documents, or otherwise. Hereinafter, we refer to the basis for assessment of a penalty fee proposed in § 160.612(b) as ''knowingly providing inaccurate or incomplete information.''

In § 160.614(a)(2), we propose that a CHP would be assessed a penalty fee of $40 per covered life of the CHP when assessed a penalty fee on the basis of § 160.612(b). To be clear, we do not believe a ''per day'' calculation (as described in section II.b.2.a) would apply to a situation in which a CHP has knowingly provided inaccurate or incomplete information. Because the first certification of compliance is a ''snap shot'' of compliance on the date a CHP makes its § 162.926 submission, the CHP either knowingly provided inaccurate or incomplete information on that day or it did not. A CHP does not knowingly provide inaccurate or incomplete information on the date submitted, and, on the next, or succeeding, day(s), discontinue the state of ''knowingly providing inaccurate or incomplete information or documentation.'' Hence, we would apply only the maximum penalty fee in such a situation.

We interpret the statutory language as intending a cap of $40, thus, in § 160.614(b), we propose that a CHP may not be assessed more than $40 per covered life of the CHP, even where a CHP meets the bases for penalty fees under both § 160.614(a)(1) and (2). For instance, a CHP may provide the required documentation to the Secretary past the applicable deadline, and, later, also be found to have knowingly provided inaccurate or incomplete information; such a CHP would be assessed a penalty fee of $40 per covered life. Following are two examples (not meant to be inclusive of all possible scenarios) where we would determine a CHP to have knowingly provided inaccurate or incomplete information as described in § 160.612(b):

- To obtain a CORE Seal, a CHP would submit documentation to a CORE-authorized testing vendor during certification testing, and to CAQH CORE in applying for the Seal. We would have a basis for assessing a penalty fee under § 160.612(b) should a CHP knowingly provide inaccurate information in the documentation it submits to the testing vendor or to CAQH CORE as part of the certification process, that, in turn, would then be submitted as part of the § 162.926 submission requirements.
- To obtain the HIPAA Credential, a CHP must attest that it has successfully completed testing with at least three of its trading partners. We would have a basis for assessing a penalty fee under § 160.612(b) should a CHP be found to have knowingly provided inaccurate information with respect to the minimum required number of trading partners that would then be submitted as part of the § 162.926 submission requirements. We solicit comment on our proposed penalty fee policy for a CHP that knowingly provides inaccurate or incomplete documentation or information.

3. Annual Fee Increase

Section 1173(j)(1)(D) of the Act provides for an annual increase in penalty fees by the annual percentage increase in total national health care expenditures. We are not proposing an annual increase methodology at this time because the first certification of compliance framework we propose here would assess only a one-time penalty fee, not a penalty fee that would be assessed year after year. We may revisit this issue in future rulemaking.

4. Notice of Penalty Fee, CHP's Response to Notice of Penalty Fee, and Defenses

In § 160.616, we propose that the Secretary would provide a CHP notice (sent by certified mail with a return receipt requested) that it meets one or more bases to be assessed a penalty fee under proposed § 160.612. Such a notice would specify:

- The penalty fee amount;
- Reference to the bases, under proposed § 160.612, for the penalty fee;
- A description of the findings of fact regarding the violations upon which the penalty fee is based; and
- The reason(s) why the violation(s) subject the CHP to a penalty fee.

We believe these notice elements would enable a CHP to understand why it met the criteria to potentially be assessed a penalty fee, and the amount proposed to be assessed.

In § 160.618, we propose that a CHP may submit evidence of any of the defenses described in § 160.620 in response to the notice of penalty fee. Under proposed § 160.618(b), a CHP must assert any such defense(s) in writing, and within 30 days of receipt of the notice of penalty fee. We propose in § 162.620 that the Secretary will consider only the following defenses:

- The CHP is not subject to the requirements of § 162.926. For a number of reasons, the documentation or deadline requirements of the first certification of compliance may not apply to a particular CHP. For instance, a CHP may not offer any major medical policies, and, therefore, may not be assessed a penalty fee.
- The CHP's failure to meet the requirements of § 162.926 was attributable to a ministerial and non-substantive error. We propose to apply this defense narrowly; such a ministerial and non-substantive error might include a typographical mistake made in the process of providing the required documentation to the Secretary.
- The failure to meet the requirements of § 162.926 was beyond the control of the CHP. As with the previous defense, we propose to apply this defense narrowly. A failure to meet the documentation or deadline requirements of § 162.926 beyond the control of the CHP conceivably might include an ''act of god'' (and not an act of the CHP or SHP's own making) that made it impossible for the CHP to meet the requirements. Given the length of time that we propose CHPs would have to meet the submission requirements, however, we believe successful application of this defense would be extraordinarily rare, and limited only to catastrophic situations.

By proposing to limit the scope of the defenses the Secretary will consider in § 160.620, we make clear that that Secretary will not consider any other asserted defense, including, but not limited to, any defense associated with a CHP's cost considerations in meeting the requirements, or lack of knowledge or confusion about either the requirements of the first certification of compliance or about the operating rules and standards themselves.

We propose to allow a CHP to respond to a notice of penalty fee as an opportunity to present the circumstances that prevented it from meeting the first certification of compliance requirements prior to a potential appeal to an administrative law judge (ALJ). This opportunity to present defenses is analogous to, but much narrower than, our complaint-driven process when a covered entity may resolve a complaint brought against it before CMPs are imposed in a notice of determination under § 160.420.

We solicit comments on the defenses the Secretary may consider.

5. Notice of Determination and a CHP's Hearing Rights

In § 160.624, we propose sending a notice of determination (by certified mail with return receipt requested) to a CHP indicating whether a penalty fee is, or is not, being assessed. A notice of determination will be sent irrespective of whether a CHP responds to the proposed § 160.616 notice of penalty fee, and irrespective of whether the Secretary determines to assess, or not to assess, a penalty fee.

Should a penalty fee will be assessed, § 160.624 proposes that the notice of determination would specify:

- A description of the statutory basis for the assessment of the penalty fee;
- The amount of the penalty fee;
- The regulatory basis, under § 160.612, for the assessment of the penalty fee;
- The findings of fact regarding the violations on which the assessment of the penalty fee is based;
- Any defenses described in § 160.620 that were considered in determining whether to assess the penalty fee and the reason(s) why the defenses were rejected;
- Instructions for appealing the penalty fee; and
- A statement that the failure to request a hearing within 90 days results in the imposition of the penalty fee.

We believe the proposed contents of the notice of determination would be sufficient to enable a CHP to understand why it is being assessed a penalty fee, the amount of the penalty fee, and how the CHP could appeal the penalty fee. We solicit comment on the proposed contents of the notice of determination.

Should the Secretary determine not to assess a penalty fee, the notice of determination would indicate why any defense(s) raised under § 160.620 was/were successful, and what, if any, actions the CHP must take. Because the first certification of compliance process does not otherwise envision the application of a corrective action process, the only actions we contemplate would be associated with remedying the situations associated with the exercise of successful defenses asserted under proposed § 1620.620(b) or (c).

6. Administrative Appeals Process

In § 160.626, we propose that, upon receiving a notice of determination assessing a penalty fee described in § 160.624(a), a CHP may file a request for a hearing before an administrative law judge (ALJ). Should the CHP fail to request a hearing within 90 days of receiving the notice of determination (or otherwise affirmatively waive its right to a hearing within that 90 days), it would forego its right to a hearing and the Secretary would notify it that the penalty fee assessed in the notice of determination is final and inform it how the penalty fee must be paid.

If a CHP timely requests a hearing with an ALJ, the CHP would participate in a process that is already largely codified at § 160.500 through § 160.552. Administrative appeals before ALJs are widely used to adjudicate disputes between government agencies and individuals/entities aggrieved by agency decisions, and such a process is currently used for HIPAA Administrative Simplification violations. We believe that using the ALJs that already have jurisdiction over HIPAA Administrative Simplification violations handled under § 160.300, and using the same appeals process, would support consistency in adjudication of HIPAA Administrative Simplification appeals.

Section 160.500 is the Applicability provision for Subpart E—Procedures for Hearings, and provides, ''[t]his subpart applies to hearings conducted relating to the imposition of a civil money penalty by the Secretary under 42 U.S.C. 1320d–5.'' We propose to revise this provision by adding a reference to 42 U.S.C. 1320d–2(j), to indicate that Subpart E also applies to the assessment of a penalty fee under Subpart F.

The term ''respondent'' is defined in § 160.103 as ''a covered entity or business associate upon which the Secretary has imposed, or proposes to impose, a civil money penalty.'' In order to make clear that the term respondent, when used in Subpart E, includes entities that are assessed a penalty fee pursuant to Subpart F, we propose to revise the definition to state that respondent ''means a covered entity or business associate upon which the Secretary has imposed or proposes to impose, a penalty fee under Subpart F or a civil money penalty.''

Section 160.506 specifies the rights of the parties. The ALJ authority is delineated in § 160.508. Sections 160.510 through 160.544 describe the ALJ hearing process. The right to appeal the ALJ decision to the Departmental Appeals Board is addressed in § 160.548. As noted, we propose applying most of § 160.500 through § 160.552, as already promulgated, as the procedure for CHPs to use in appealing a notice of determination. Because it is not always clear from those provisions that the process may apply to penalty fee assessments under Subpart F, in the following sections we propose to revise the regulation text to explicitly account for the specific health plan certification of compliance penalty fees and notice procedures: § 160.500, § 160.504, § 160.534, § 160.540, § 160.546, § 160.548, and § 160.550.

7. Other Issues

a. Relationship of Certification of Compliance Process to Complaint-Driven Process

In section I.B.3 of this proposed rule, we describe the current HIPAA complaint-driven enforcement procedure through which an entity may bring a complaint against any entity it believes is not in compliance with adopted HIPAA transaction standards, operating rules, or code sets. Such a complaint would generate a fact-finding and resolution process, which could result in a corrective action plan, the imposition of CMPs, or a hearing before an ALJ.

The complaint-driven and first certification of compliance enforcement processes are markedly different, even though both may result in a determination that may be appealed to an ALJ. The complaint-driven enforcement process is initiated as a result of a complaint, uses an informal fact-finding process, employs a corrective action plan if the complaint is valid, and imposes CMPs if the corrective action plan is not followed. Conversely, the first certification of compliance requires certain submissions by specific dates, and provides for an enforcement process with respect to a CHP that fails in various ways to abide by these requirements. Notably, the first certification of compliance, as proposed in this rule, does not employ a corrective action plan should a CHP fail to meet the certification of compliance requirements.

These two distinct enforcement processes assess CMPs (in the case of the complaint-driven process) or penalty fees (in the case of the first certification of compliance) for different reasons. The complaint-driven process addresses complaints regarding a covered entity's failure to comply with any Administrative Simplification requirement, with the exception of a failure to comply with the first certification requirements proposed in this rule (as we describe in this section). The first certification of compliance process assesses penalty fees for CHPs that fail to meet the submission requirements or that knowingly provide inaccurate or incomplete documentation associated with such submissions, as proposed in this rule.

Nothing in this proposed rule prohibits the Secretary from pursuing both processes at the same time against a CHP—through CMPs, in the case of the complaint-driven process for failure to comply with Administrative Simplification requirements, and through penalty fees for failure to meet the first certification of compliance requirements. Further, an investigation through the complaint-driven process could lead to the assessment of a penalty fee for a first certification of compliance violation if it revealed through that investigation that the CHP failed to meet the first certification of compliance requirements or knowingly provided inaccurate or incomplete information required for the first certification of compliance. For instance, if an investigation based on a complaint revealed that a CHP never submitted documentation or knowingly submitted inaccurate or incomplete documentation in order to be awarded a CORE Phase III Seal or HIPAA Credential under § 162.926, it is possible both CMPs and penalty fees may be imposed/assessed.

Section 160.300 is the Applicability provision under Subpart C—Compliance and Investigations—which is the complaint-driven enforcement process for Administrative Simplification violations. We propose to amend this section, that now states ''[t]his subpart applies to actions by the Secretary, covered entities, business associates, and others with respect to ascertaining the compliance by covered entities and business associates with, and the enforcement of, the applicable provisions of this part 160 and parts 162 and 164 of this subchapter,'' to clarify that the complaint-driven process does not apply to the requirements in § 162.926. That is, we propose that a complaint-may not be filed against a health plan alleging that it fails to meet the certification of compliance submission requirements in § 162.926.

## III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(a) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on the information collection requirements (ICRs) regarding the first certification of compliance documentation requirements. Among other requirements, the Affordable Care Act requires health plans to file statements with the Secretary certifying that they are compliant with standards and operating rules for specific transactions. The Affordable Care Act also mandates that the Secretary assess a penalty fee against a health plan that fails to file a statement with the Secretary certifying that it is compliant and/or fails to submit adequate documentation of compliance.

In section II. of this proposed rule, we discuss the proposed requirements for the first certification of compliance. In section II.A.7 of this proposed rule, we discuss our proposal that a CHP must comply with the first certification of compliance requirements based on when it obtains its HPID. Submission requirements are explained in section II.A.2 and .3 of this proposed rule. We discuss the penalty fees that may be assessed on a CHP that does not meet the submission requirements or knowingly provides inaccurate or incomplete information in section II.B. of this proposed rule.

The provisions in this proposed rule align with existing statutory and regulatory mandates. In previous regulations, specified in section I.B.1 and 2 of this proposed rule, we have mandated compliance with the adopted standards and operating rules for the HIPAA transactions for which documentation of compliance is proposed in this rule. Other existing regulations that are complimented through this proposed rule include § 160.310 which requires covered entities to maintain records and compliance reports and provide these to the Secretary if requested, and § 162.923, that requires covered entities to require their BAs to comply with applicable HIPAA standards and operating rules.

In this proposed rule and in this ICR, we are focused on the one-time requirement that CHPs, as defined by § 162.103, must provide the Secretary the following information and documentation for the first certification of compliance: (1) the number of covered lives of a CHP; and (2) documentation that demonstrates that the CHP has obtained a Phase III CORE Seal or the HIPAA Credential.

We do not know at this time how many health plans would meet the definition of a CHP as defined in § 162.103. In the HPID final rule (77 FR 54696), we identified 12,000 self-insured group health plans, 1,827 health insurance issuers, and 60 government health plans that might meet the definition of health plan. We believe there will be considerably less than the approximately 15,000 health plans that would meet the definition of a CHP, but we will not know the actual number of CHPs until after the deadline for CHPs to obtain an HPID has passed; that is, November 5, 2015. While we do not have objective data that identifies which or how many health plans would be CHPs, for the purpose of the ICRs, we assume that 3,000 to 5,000 health plans may meet the definition of a CHP. Health plans have been increasingly consolidating into larger organizations whereby a single CHP exercises sufficient control over an increasing number of SHPs to direct their business activities, actions, or policies. Thus, we do not believe that more than one-third (5,000) of health plans meet the definition of a CHP and, in fact, believe the number may be significantly less. We solicit comments on our assumption of the number of CHPs.

### *A. ICRs Regarding Submission of the Number of Covered Lives (§ 162.926(a)(1) and (b)(1))*

Proposed § 162.926(a)(2) would require that a CHP that obtains an HPID before January 1, 2015 must provide to the Secretary documents demonstrating compliance as explained in section II.A.3. of this proposed rule. Proposed § 162.926(b)(2) would require that a CHP that obtains an HPID on or after January 1, 2015 and on or before December 31, 2016, must, within 365 days of obtaining an HPID, provide to the Secretary documents demonstrating compliance as explained in section II.A.7. of this proposed rule. Proposed § 162.926(a)(1) and (b)(1) require a CHP to submit the number of covered lives of a CHP (as defined in § 162.103) on the date that the documentation required in § 162.926(a)(2) and (b)(2) is submitted. In section II.A.1. of this proposed rule, we indicate that the number of covered lives must include the number of covered lives of a CHP's SHPs, if it has any. We explain the submission requirements of covered lives in section II.A.2. of this proposed rule, including

the reason for including the number of covered lives of the SHPs of the CHP.

The one-time burden associated with this requirement is the time and effort associated with the CHP to: (1) Obtain the number of covered lives of the CHP (including those of its SHPs); (2) calculate the total number of covered lives of the CHP and its SHPs that would meet the definition of major medical policy as defined in proposed § 160.604; (3) have the information reviewed by a CHP executive; and (4) submit the number of covered lives to the Secretary. We believe that a CHP would have accurate records of the number of covered lives of the CHP and each of its SHPs and would be able to access this easily. Therefore, we assume that the CHPs would not need to contact each SHP to obtain the required information. We also believe that CHPs would have easily accessible data on the total number of covered lives of the CHP and its SHPs that have major medical policies. We make these assumptions on the basis that a CHP's data on the number of covered lives and policies—used to determine, for example, risk, costs of care, human resource needs, and other factors—is essential information to have in order to for a CHP to conduct business.

We estimate this burden for proposed § 162.926(a)(1) and (b)(1) would be 2 hours for each CHP to obtain the number of covered lives for the CHP and each of its SHPs, 2 hours to calculate the total number of covered lives that have major medical policies, one hour for an executive to review the number of covered lives with major medical policies, and, 30 minutes to submit the number of covered lives of the CHP and its SHPs to HHS.

We used the median hourly labor rate of $38.31 for a computer information system analyst; $58.15 for a computer and information system manager; and $80.84 for a chief executive as reported by the Department of Labor, Bureau of Labor Statistics, May 2012, found at: *http://www.bls.gov/oes/current/oes_nat.htm#13-0000.* We believe that a computer analyst would be an appropriate position to obtain the number of covered lives and submit the number to the Secretary, a computer and systems manager to do the calculation, and a chief executive would verify the accuracy of the information to be submitted. All CHPs must comply with these requirements.

We estimate that proposed § 162.926(a)(1) and (b)(1) would impose a one-time, 5.5 hour burden on each CHP. The total burden associated with this task for each of the estimated 3,000 to 5,000 CHPs would be: (1) $76.62 ($38.31 × 2 hours) to obtain the number of covered lives; (2) $116.30 ($58.15 × 2 hours) to calculate the number of covered lives in major medical plans; (3) $80.84 ($80.84 × 1 hour) for an executive to review the number of covered lives; and (4) $19.16 ($38.31 × 0.5 hours) to submit the number of covered lives to the secretary. We estimate that the total cost for each CHP would be $292.92.

The estimated annual burden for this requirement would be 16,500 (3,000 CHPs × 5.5 hours) to 27,500 hours (5000 CHPs × 5.5 hours). The total estimated one-time cost associated with all of the requirements in proposed § 162.926(a)(1) and (b)(1) would be approximately $878,760 ($292.92 × 3000 CHPs) to $1,464,600 ($292.92 × 5000 CHPs).

*B. ICRs Regarding Submission of a Phase III CORE Seal (§ 162.926(a)(2)(i) and (b)(2))*

Section 162.926(a)(2)(i) and (b)(2) would require that a CHP provide documentation demonstrating it obtained a Phase III CORE Seal or the HIPAA Credential. Should a CHP choose to obtain a Phase III CORE Seal, proposed § 162.926(a)(2)(i) and (b)(2) would require that it provide documentation demonstrating it had obtained a Phase III CORE Seal. We explain in section II.A.3.(b). of this proposed rule that a CHP electing to obtain a Phase III CORE Seal must obtain the seal for each of the three CAQH CORE operating rules phases, or, in other words, a CHP must obtain a CORE Seal for Phases I and II to obtain a Phase III CORE Seal. However, as proposed in § 162.926(a)(2), we require only the submission of a Phase III CORE Seal to comply with the certification compliance documentation requirements. Consequently, for the ICR in this proposed rule, we considered the time and effort for submitting documentation that the CHP has obtained the Phase III CORE Seal and not the time and effort for a CHP to obtain the CORE Phase I and II Seals.

In sections II.A.3.(b). and II.A.3.(d). of this proposed rule, we discuss CORE certification testing, CORE-authorized Testing Vendors, and the CORE certification process. We describe the four-step process required to be awarded any of the CORE Seals: (1) Conduct a gap analysis by evaluating, planning, and completing necessary upgrades; (2) sign the CAQH CORE Pledge committing to become CORE certified; (3) conduct testing through a CORE-authorized Testing Vendor (certification testing); and (4) apply for a Phase III CORE Seal. In section II.A.3. of this proposed rule, we explain that the documentation that demonstrates that the CHP has obtained a Phase III CORE Seal is considered adequate documentation of compliance by the CHP and its SHPs with the operating rules for the eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice transactions.

For the purposes of the ICR, we do not include the time and effort for a CHP to obtain a CORE Phase III Seal because we believe that the process of obtaining a Phase III CORE Seal is inherent in the cost of doing business and we accounted for the time and effort as well as the cost for complying with the operating rules in previous rulemaking. As we indicated, we have mandated compliance with the adopted standards and operating rules for HIPAA transactions in previous regulations. The costs associated with compliance includes for example, analyzing existing data capability and infrastructure, development or enhancement of existing infrastructure, and testing of the CHPs systems both internally and externally. We believe that, because CHPs are expected to be compliant with the operating rules, they have undertaken the steps necessary to ensure that they are compliant and are able to perform transactions with their trading partners according to the adopted standards and operating rules. In this rule, we are proposing submission documentation requirements; therefore, in this analysis, we are only analyzing the cost of submitting this documentation.

We have proposed two options for documentation that demonstrates compliance with the operating rules and standards. We expect that the decision to obtain the CORE Phase I and II Seals and provide documentation of the CORE Phase III Seal would be a business decision based on a health plan's strategy for implementing new standards or operating rules. Therefore, because the time and effort for compliance with standards and operating rules have been addressed in previous rule making and, because a CHP determines if it wishes to obtain the CORE Phase I and II Seal and submit the Phase III CORE Seal to comply with the documentation requirements, we do not include any costs for the time and effort associated with infrastructure development or enhancement or testing of systems to ensure compliance. We also do not include the time and effort costs in the ICR to comply with any of CORE's specific requirements to obtain the CORE Seals. Finally, we do not account for the variability in time,

readiness and success that may or may exist for a CHP to meet CORE's requirements for the CORE Seals. There may be CHPs that have undergone extensive testing and will be able to undergo the CORE process efficiently and in a relatively short time. Other CHPs may require assistance and guidance and a more extensive time period to meet CORE's requirements.

Included in the CORE fee paid by each CHP is assistance and guidance for CHPs. We account for the fee to CORE in the regulatory Impact Statement in this proposed rule. For the purposes of the ICR in this proposed rule, we considered the time and effort for a CHP to obtain documentation of the Phase III CORE Seal awarded by CORE, and the time and effort for the CHP to submit the documentation of that Seal to the Secretary. As we discussed previously, in this proposed rule, we only consider the time and effort to comply with the certification of compliance requirements described in this proposed rule.

At the current time, we do not know how many CHPs will elect to obtain a Phase III CORE Seal. According to CAQH CORE's Web site at *http://www.caqh.org/CORE_organizations.php,* 30 health plans have voluntarily obtained CORE Seals for Phases I and II, and it reports at *http://www.caqh.org/ben_participating.php* that 25 health plans and 16 government agencies are CORE participating organizations. Ten CORE participating health plans have obtained Phase I and Phase II CORE Seals. We assume that any health plan that has obtained the CORE Seal for Phases I and II will obtain a Phase III CORE Seal and therefore meet the requirements of § 162.926(a)(2)(i) or (b)(2). We also assume that there may be CORE participating health plans that will obtain a Phase III CORE Seal.

Because we are unable to quantify the number of CHPs that will obtain a Phase III CORE Seal, we are unable to estimate the total cost with any certainty. Therefore, for the purposes of the ICR, we estimate that 40 percent of health plans that would meet the definition of a CHP (that is, 1,200 to 2,000 CHPS) will obtain a Phase III CORE Seal and submit documentation of a Phase III CORE Seal to comply with § 162.926(a)(2) and (b)(2)(i). We solicit comment on our assumption of the number of CHPs that would obtain a Phase III CORE Seal.

The one-time burden associated with § 162.926(a)(2)(i) or (b)(2) is the time and effort for the estimated 1,200 to 2,000 CHPs to (1) obtain a Phase III CORE Seal from CAQH CORE; and (2) submit the documentation of a Phase III CORE Seal to the Secretary. We estimate this burden to be 1 hour to obtain the Phase III CORE Seal from CAQH CORE and 30 minutes to submit documentation of the CORE Seal to the Secretary. We used the median hourly labor rate of $38.31 for a computer information system analyst as reported by the Department of Labor, Bureau of Labor Statistics, May 2012, found at: *http://www.bls.gov/oes/current/oes_nat.htm#13-0000* because we believe that a computer analyst would be required to obtain the Phase III CORE Seal and submit documentation to the Secretary.

We estimate that proposed § 162.926(a)(2)(i) and (b)(2) would impose an estimated one-time, one and one half hour burden on each CHP. The total estimated burden associated with this task for each CHP would be: (1) $38.31 ($38.31 × 1 hour) to obtain the Phase III CORE Seal from CAQH CORE; and (2) $19.16 ($38.31 × 0.50 hours) to submit documentation of the CORE Seal to the Secretary. The estimated one-time burden in proposed § 162.926(a)(2)(i) and (b)(2) would be 1,800 (1,200 CHPs × 1.5 hours) to 3,000 hours (2,000 CHPs × 1.5 hours). The total estimated one-time cost associated with the requirement § 162.926(a)(2)(i) and (b)(2) would be approximately $68,958 ($38.31 × 1,800 hours) to $114,930 ($38.31 × 3,000 hours).

*C. ICRs Regarding Submission of the HIPAA Credential (§ 162.926(a)(2)(ii) and (b)(2))*

In section II.A.3(a) of this proposed rule, we explain that the HIPAA Credential indicates that the CHP has confirmed that it has successfully tested the operating rules for the eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice transactions with trading partners. For each of the three transactions, the CHP must confirm that the number of transactions conducted with those trading partners collectively accounts for at least 30 percent of the total number of transactions conducted with providers. For each of the three transactions, the CHP must confirm that it has successfully tested with at least three trading partners, but if the number of transactions conducted with three trading partners does not account for at least 30 percent of the total number of transactions conducted with providers, the CHP could confirm that it has successfully tested with up to 25 trading partners. The CHP would be required to provide a list of the names of the trading partners and their contact information to CORE. A CHP would be representing itself as well as all of its SHPs with the attestation.

Should a CHP choose to obtain the HIPAA Credential, proposed § 162.926(a)(2)(ii) and (b)(2) would require the CHP to provide documentation that it has obtained the CORE HIPAA Credential. In section II.A.3 of this proposed rule, we explain that the documentation that demonstrates that the CHP has obtained the HIPAA Credential is considered adequate documentation of compliance by the CHP and its SHPs with the operating rules for the applicable transactions.

For the purpose of the ICR, we are not considering the time and effort for a CHP to perform testing with its trading partners because, as we have discussed previously, we addressed the time and effort to comply with the operating rules in previous rule making, which includes testing with the CHPs trading partners. The CORE HIPAA Credential will require testing before being obtained, and we assume that every health plan's implementation preparation plan requires internal and external testing prior to implementing new standards or operating rules.

However, in previous rule making, we did not account for the time and effort for a CHP to identify at least three trading partners with which it or its SHPs have successfully tested the operating rules for each of the three transactions (eligibility for a health plan, health care claim status, and electronic funds transfers (EFT) and remittance advice transactions).

The estimated one-time burden associated with § 162.926(a)(2)(ii) and (b)(2) for the HIPAA Credential is the time and effort to: (1) Confirm that testing has been conducted for each of the three transactions with trading partners that collectively conduct no less than 30 percent of the total number of transactions conducted with providers; (2) list the names of the trading partners and their contact information; (3) verify the accuracy of the trading partner list; (4) obtain the HIPAA Credential from CORE; and (5) submit documentation of the HIPAA Credential to the Secretary. The tasks associated with the application for and submission of the HIPAA Credential—and, therefore, the estimated burden to a CHP—may change if warranted by any changes in the draft requirements for the HIPAA Credential.

As mentioned, we are unable to determine how many CHPs will choose to obtain the HIPAA Credential to fulfill the requirements of § 162.926(a)(2)(ii) and (b)(2)(ii), but we believe that most CHPs will choose the least costly

certification option. Because we are unable to quantify the number of health plans that will obtain the HIPAA Credential, we cannot estimate the total cost with any certainty. We estimate that 60 percent of CHPs (that is 1,800 to 3,000 CHPS) will obtain the HIPAA Credential and submit documentation of such the HIPAA Credential to comply with § 162.926(a)(2)(ii) and (b)(2). We solicit comment on our assumption of the number of CHPs likely to obtain the HIPAA Credential.

As mentioned, CAQH CORE is currently developing the HIPAA Credential—which we expect to be finalized prior to the time we finalize this proposed rule—and we described in section II.3.(a) the expected process and requirements for obtaining it. Should the requirements for the final HIPAA Credential differ in any way from the way we described it in section II.3.(a), we would reopen the comment period to permit additional comment on the HIPAA Credential, including on the topic of the estimated number of health plans that would obtain the HIPAA Credential.

We estimate that the burden associated with proposed § 162.926(a)(2)(ii) and (b)(2) for each of the estimated 1,800 to 3,000 CHPs would be 2 hours to obtain documentation of the three testing partners; one hour to prepare the trading partner list; one hour to verify accuracy of the list; one hour to obtain the HIPAA credential form CORE; and 30 minutes to submit the CORE HIPAA Credential to the secretary. We used the median salaries as reported by the Department of Labor, Bureau of Labor Statistics, May 2012, found at: *http://www.bls.gov/oes/current/oes_nat.htm#13-0000*. We used the median hourly labor rate of $38.31 for a computer information system analyst to prepare the trading partner list, obtain the HIPAA credential from CORE and submit the documentation; $58.15 for a computer and information system manager to confirm that testing has been conducted with trading partners that collectively conduct no less than 30 percent of the total transactions conducted with providers for each of the three transactions (eligibility of a health plan, health care claim status, and the electronic funds transfers (EFT) and remittance advice transactions); and $80.84 for an executive to verify the trading partner list.

We estimate that proposed § 162.926(a)(2)(ii) and (b)(2) will impose a one-time, 5.5 hours burden on each CHP. The total time and effort burden associated with this task for each CHP would be: (1) $116.30 ($58.15 × 2) to obtain the trading partner documentation; (2) $38.31 ($38.31 × 1) to compile the trading partner list; (3) $80.84 ($80.84 × 1) to verify the trading partner list; (4) $38.31 ($38.31 × 1) to obtain the HIPAA Credential from CORE; and (5) $19.16 ($38.31 × 0.5) to submit documentation of the HIPAA Credential to the Secretary. We estimate the total burden for each CHP would be $292.92.

The total estimated one-time burden associated with all of the requirements in proposed § 162.926(a)(2)(ii) and (b)(2) would be 9,900 (1,800 CHPs × 5.5 hours) to 16,500 hours (3,000 CHPs × 5.5 hours) and approximately $527,256 ($292.92 × 1,800 CHPs) to $878,760 ($292.92 × 3,000 CHPs).

Calculations are illustrated in Table 6. For simplicity, Table 6 demonstrates burdens and costs based on the high estimate of CHPs (5,000) that are expected to certify compliance.

TABLE 6—ESTIMATED ANNUAL BURDEN FOR REPORTING, RECORDKEEPING AND THIRD-PARTY DISCLOSURE REQUIREMENTS

| Regulation section | OMB Control No. | Respondents | Responses | Burden per response (hours) | Annual burden (hours) | Hourly labor cost of reporting ($) | Total labor cost of reporting ($) | Total costs ($) |
|---|---|---|---|---|---|---|---|---|
| 162.926(a)(1) and (b)(1) | 0938—New | 5,000 | 15,000 | 2.5 | *12,500 | 38.31 | 478,875 | 478,875 |
| 162.926(a)(1) and (b)(1) | 0938—New | 5,000 | 5,000 | 1 | 5,000 | 80.84 | 404,200 | 404,200 |
| 162.926(a)(1) and (b)(1) | 0938—New | 5,000 | 5,000 | 2 | 10,000 | 58.15 | 581,500 | 581,500 |
| 162.926(a)(2)(i) and (b)(2) | 0938—New | 2,000 | 5,000 | 1.5 | **3,000 | 38.31 | 114,930 | 114,930 |
| 162.926(a)(2)(ii) and (b)(2) | 0938—New | 3,000 | 7,500 | 2.5 | **7,500 | 38.31 | 287,325 | 287,325 |
| 162.926(a)(2)(ii) and (b)(2) | 0938—New | 3,000 | 3,000 | 1 | 3,000 | 80.84 | 242,520 | 242,520 |
| 162.926(a)(2)(ii) and (b)(2) | 0938—New | 3,000 | 3,000 | 2 | 6,000 | 58.15 | 348,900 | 348,900 |
| Total | | 10,000 | 27,000 | | **37,500 | | | 2,458,250 |

*There are no capital or maintenance costs associated with the information collection requirements contained in this notice of proposed rulemaking. Therefore, we have removed the designated column from Table 6.

**Even though the information collection requirements are comprised of one-time burdens, all burden estimates have been annualized over the standard 3-year OMB approval period.

## IV. Regulatory Impact Statement

We have examined the impact of this proposed rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributives, and equity). A regulatory analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We believe this proposed rule does not reach the economic threshold for being considered economically significant, and thus, is not considered a major rule. We solicit comment on, and data regarding, the assumptions and findings presented in this initial regulatory analysis.

The proposed rule would require a CHP to submit documentation to the Secretary that demonstrates compliance with the standards and operating rules adopted by the Secretary under HIPAA, establish the first certification of compliance process, and establish penalty fees for CHPs that fail to comply with the first certification of compliance requirements. This proposed rule would implement elements of the certification of compliance mandate in the Affordable Care Act. We expect that the

first certification of compliance provision is an initial step toward a consistent, industry-wide testing framework.

As discussed in more detail earlier in this proposed rule, many of the requirements of this proposed rule build on already existing statutory and regulatory mandates. In the ICRs, we estimate a total one-time burden of approximately $1,475,000 to $2,458,000 for 3,000 to 5,000 CHPs to comply with the submission requirements of proposed § 162.926.

In sections II.A.3.(a) and A.3.(b). of this proposed rule, we discuss the two options for meeting the submission requirements: a Phase III CORE Seal and the HIPAA Credential, respectively. A CHP may choose either option. In section II.A.3.(a) and (b) of this proposed rule, we describe the process for obtaining either a Phase III CORE Seal or the HIPAA Credential.

We expect that certification testing, such as that required for CHPs obtaining the CORE Phase III Seal, would become more widespread as a result of this proposed rule, and thus the rule would generate costs associated with credentialing activities and greater compliance with operating rules (which requires updating infrastructure). We are unable to quantify either the current rate of non-compliance with HIPAA requirements, the number of CHPs that would become newly compliant as a result of this proposed rule, or the cost, per CHP becoming newly compliant, of infrastructure updates and requisite testing.

A category of impacts for which we have been able to make estimates is the CAQH CORE fees.[42] In section II.A.6.(a) of this proposed rule, we discuss the cost of a Phase III CORE Seal and HIPAA Credential based on current fees that CAQH CORE charges for a Phase III CORE Seal and the fees that CAQH CORE believes that it will charge for the HIPAA Credential. Federal and state government entities are currently not charged for a Phase III CORE Seal, nor are CAQH member plans. However, CAQH CORE will charge government entities a $100 fee for obtaining the HIPAA Credential.

We assumed the same number of CHPs that we use in the ICRs (that is 1,200 to 2,000 CHPs would obtain a Phase III CORE Seal and 1,800 to 3,000 CHPs would obtain the HIPAA Credential). For the purpose of this analysis, we considered the cost to obtain either the CORE Seals (Phase I, II, and III) or the HIPAA Credential for all of the estimated 3,000 to 5,000 CHPs and did not account for the CHPs that currently have obtained the CORE Seal for Phase I and II or CAQH member plans. That means we did not deduct the number of health plans with current Phase I and Phase II CORE Seals or CAQH member plans that are not assessed a fee by CAQH CORE to obtain a Phase III CORE Seal.

For the purpose of the impact analysis, we did not account for any penalty fees that could be assessed for CHPs that fail to comply with the certification of compliance submission requirements. We believe that we have structured the provisions of this proposed rule such that most CHPs will be able to meet the submission requirements. They will have had significant time to implement the applicable standards and operating rules, conduct the transactions in a compliant manner, and conduct certification testing or testing with their trading partners. Further, because the penalty fees are substantial, we believe they serve as a strong disincentive for noncompliance. We therefore believe few CHPs will fail to certify compliance, and the total amount of assessed penalty fees will be insignificant.

For the 1,200 to 3,000 CHPs we estimate would obtain a Phase III CORE Seal, we assumed that 50 percent would have net annual revenues less than $75 million with a CAQH CORE fee of $12,000 each ($4,000 for each of the three CAQH CORE Operating Rule Phases). We assumed that 50 percent of the CHPs would have net annual revenues equal or greater than $75 million with a CAQH CORE fee of $18,000 each ($6,000 for each of the three CAQH CORE Operating Rule Phases). We estimate that the total cost for all CHPs that would obtain a CORE Seal would be approximately $18 million [($12,000 × 600 CHPs) + ($18,000 × 600 CHPs)] to $30 million [($12,000 × 1000 CHPs) + ($18,000 × 1000 CHPs)].

For the 1,800 to 2,000 CHPs that we estimate would obtain a HIPAA Credential, we assumed that 5 percent would have net annual revenues less than $5 million with a CAQH CORE fee of $100 each; 20 percent would have net annual revenues of $5 million to below $25 million with a fee of $1,000 each; 20 percent would have net annual revenues $25 million to less than $50 million with a fee of $2,000 each; and 55 percent would have net annual revenues of greater than $50 million with a fee of $4,000 each. The estimated total cost for all CHPs that would obtain the HIPAA Credential is approximately $5,049,000 [($100 × 90 CHPs) + ($1,000 × 360 CHPs) + ($2,000 × 360 CHPs) + ($4,000 × 990 CHPs)] to $8,415,000 [($100 × 150 CHPs) + ($1,000 × 600 CHPs) + ($2,000 × 600 CHPs) + ($4,000 × 1,650 CHPs)]. We note, because government entities do not generate net annual revenues, they have been included in the 5 percent computation of CHPs with net annual revenues less than $5 million.

Consequently, we estimate the total cost to comply with § 162.926 (that is, for the estimated 3,000 to 5,000 CHPs to provide the documentation of obtaining the CORE Seal or the HIPAA Credential) would be approximately $25 million to $41 million. This total cost includes the time and effort discussed in the ICR. The calculation is as follows: [Time and effort in ICR: $1,475,000 to $2,458,000] + [total fee for CORE Seals: $18,000,000 to $30,000,000] + [total fee for the HIPAA credential: $5,049,000 to $8,415,000] = $24,524,000 to $40,873,000.

We are proposing in § 162.926 that a CHP that obtains an HPID before January 1, 2015 must meet the submission requirements proposed in this rule on or before December 31, 2015. We explained in section II.A.7.(a)(1) of this proposed rule that this date is different than that in section 1173(h)(1) of the Act: December 13, 2013. We describe here the impact in benefits and penalty fees of the 2 year difference between the date in section 1173(h)(1) of the Act and the date proposed in this rule.

In the Modifications final rule, Operating Rules IFC, Health Care EFT Standards IFC, and the EFT & ERA Operating Rule Set IFC, described in the background of this proposed rule, we described the financial and qualitative benefits to implementing the standards and operating rules for the eligibility for a health plan, health claim status, and health care electronic funds transfers (EFT) and remittance advice transactions. Those rules measured the financial benefits of the standards and operating rules from the compliance dates of those particular standards and operating rules: January 1, 2012 is the compliance date for Version 5010 standards for the three transactions; January 1, 2013 is the compliance date for operating rules for the eligibility for a health plan and claim status transactions; and January 1, 2014 is the compliance date for the standards and operating rules for the health care electronic funds transfers (EFT) and remittance advice transaction.

The cost and savings of implementing those standards and operating rules on

[42] We believe that, in general, these fees represent real costs to society, in the form of labor and other resources used by CAQH CORE for conducting certification.

their compliance dates are not addressed in this proposed rule as they are accounted for in the previously mentioned rules, and the first certification of compliance requirements, as proposed in this rule, do not affect the costs and benefits of implementing these standards and operating rules.

It is possible that some CHPs may view the first certification of compliance deadline, December 31, 2015, as proposed in this rule, as an opportunity to implement the required standards and operating rules later than the compliance dates of those standards and operating rules as required in the applicable regulations. However, we assume that the number of CHPs that would slow or delay implementation based on the first certification of compliance deadline is quite small. As we noted before, thirty health plans have already obtained a Phase I CORE Seal, and many of those have obtained or are pursuing a Phase II CORE Seal. This growing group of CORE Certified entities represents many major health plans with extensive reach in terms of commercially covered lives.[43] Further, the complaint-driven process for enforcing compliance with these standards and operating rules applies as of their respective compliance dates.

We assume that the CORE-certified health plans include the process of obtaining CORE Seals for each phase of operating rules as part of their process to successfully implement new standards or operating rules. We assume these CORE-certified health plans make CORE Certification part of their implementation strategy regardless of the first certification of compliance submission requirements as proposed in this rule. As discussed in section II.A.7(a)(1) of this proposed rule, the December 31, 2015 deadline for submission of information and documentation, proposed in this rule, gives these CORE Certified entities time to obtain the Phase III CORE Seal. It also gives CHPs that would not otherwise use the CORE Certification process time to obtain either the CORE Phase I, II, and III Seals or the HIPAA Credential.

Because we believe that a negligible number of CHPs will use the December 31, 2015 deadline proposed in this rule as a reason to slow implementation of the standards or operating rules required by previous rules, and because the financial benefits for those standards and operating rules were calculated over 10-year periods, we believe the impact of the December 31, 2015 deadline on the overall financial and qualitative benefits to using these standards and operating rules to be negligible.

The amount in penalty fees that would have been assessed with a December 31, 2013 deadline cannot be determined under the proposed certification of compliance requirements because the December 31, 2015 date and other requirements proposed in this rule were developed to align chronologically with other regulatory and commercial sector initiatives. For instance, CAQH CORE began offering a Phase III CORE Seal in 2013;[44] the first entity to receive a Phase III CORE Seal did so in August 2013.[45] Given this timeframe, it is unlikely that many CHPs could have obtained a Phase III CORE Seal earlier than December 31, 2015. Likewise, CHPs have until November 2015 to obtain an HPID, and the first certification of compliance requirements apply only to CHPs.

Therefore, due to the vast difference in requirements associated with the December 31, 2013 and the December 31, 2015 deadlines, we are unable to perform an analysis of the amount of penalty fees that would have been assessed with the December 31, 2013 deadline as it would entail assuming a completely different set of requirements.

The Regulatory Flexibility Analysis (RFA), as amended, requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions.

The health insurance industry was examined in depth in the RIA prepared for the proposed rule on establishment of the Medicare Advantage program (69 FR 46866, August 3, 2004). It was determined, in that analysis, that there were few, if any, ''insurance firms,'' including HMOs that fell below the size thresholds for ''small'' business established by the SBA Health. We assume that the ''insurance firms'' are synonymous, for the most part, with health plans that conduct standard transactions with other covered entities and are, therefore, the entities that will have costs associated with meeting the first certification of compliance requirements. In fact, at the time the analysis for the Medicare Advantage program was done, and even more so now, the market for health insurance is dominated by a relative handful of firms with substantial market shares.

However, there are a number of health maintenance organizations (HMOs) that are small entities by virtue of their nonprofit status even though few if any of them are small by SBA size standards. There are approximately 100 such HMOs which may meet the definition of, and therefore define themselves, as CHPs. These HMOs and the Blue Cross and Blue Shield plans that are non-profit organizations, like the other CHPs affected by this proposed rule, will be required to meet the first certification of compliance requirements.

Accordingly, this proposed rule may affect a number of small entities. We estimate, however, that the costs of this proposed rule on ''small'' health plans do not remotely approach the amounts necessary to be a ''significant economic impact'' on firms with revenues of tens of millions of dollars. Therefore, the Secretary proposes to certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. We welcome industry and stakeholder input on our assumption in this regard.

In addition, section 1102(b) of the Act requires us to prepare a regulatory analysis for ''any rule or regulation proposed under title XVIII, title XIX, or part B of [the Act] that may have significant impact on the operations of a substantial number of small rural hospitals.'' This proposed rule, however, is being proposed under title XI, part C, ''Administration Simplification,'' of the Act, and, therefore, does not apply. Regardless, this requirement of this proposed rule is only applicable to CHPs and will not have a significant impact on the operations of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2013, that threshold is approximately $141 million. This proposed rule would impose a minimal effect on state, local, or tribal governments or on the private sector because the requirements for all CHPs regardless of ownership, to comply with the certification of compliance documentation requirements. The related costs for all 5,000 estimated CHPs is approximately $40 million, which is less than $141 million.

[43] See map with data on commercially insured lives that have policies with a CORE Certified health plan on CAQH CORE Web site: *http://www.caqh.org/pdf/COREPIwebmap.pdf.*

[44] CORE Web page: *http://www.caqh.org/ORMandate_EFT.php.*

[45] *http://www.instamed.com/news-and-events/industry-first-instamed-achieves-phase-iii-caqh-core-certification/.*

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Since this regulation does not impose any substantial costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this rule was reviewed by the Office of Management and Budget.

**List of Subjects**

*45 CFR Part 160*

Administrative practice and procedure, Computer technology, Electronic information system, Electronic transactions, Employer benefit plan, Health, Health care, Health facilities, Health insurance, Health records, Hospitals, Investigations, Medicaid, Medical research, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements, Security.

*45 CFR Part 162*

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

For the reasons set forth in this preamble, the Department of Health and Human Services proposes to amend 45 CFR parts 160 and 162 to read as follows:

## PART 160—GENERAL ADMINISTRATIVE REQUIREMENTS

■ 1. The authority citation for part 160 continues to read as follows:

**Authority:** 42 U.S.C. 1302(a); 42 U.S.C. 1320d–1320d–9; sec. 264, Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2 (note)); 5 U.S.C. 552; secs. 13400–13424, Pub. L. 111–5, 123 Stat. 258–279; and sec. 1104 of Pub. L. 111–148, 124 Stat. 146–154.

■ 2. Section 160.103 is amended by—

■ A. Adding the definition of ''Penalty fee'' in alphabetical order.

■ B. Revising the definition of ''Respondent''.

The addition and revision read as follows:

### § 160.103 Definitions.

* * * * *

*Penalty fee* means the amount determined under § 160.614.

* * * * *

*Respondent* means a covered entity or business associate upon which the Secretary has imposed, or proposes to impose, a penalty fee under subpart F or a civil money penalty.

* * * * *

### § 160.300 [Amended]

■ 3. Section 160.300 is amended by removing the phrase ''parts 162 and'' and adding in its place the phrase ''parts 162 (excluding § 162.926) and''.

■ 4. Section 160.500 is revised to read as follows:

### § 160.500 Applicability.

This subpart applies to hearings conducted relating to the following:

(a) The imposition of a civil money penalty by the Secretary under 42 U.S.C. 1320d–5.

(b) The assessment of a penalty fee by the Secretary under 42 U.S.C. 1320d–2(j).

■ 5. Section 160.504 is amended by revising paragraph (c) to read as follows:

### § 160.504 Hearing before an ALJ.

* * * * *

(c) The request for a hearing must do the following:

(1) Clearly and directly admit, deny, or explain each of the findings of fact contained in the notice of proposed determination under § 160.420 or in the notice of determination under § 160.624 with regard to which the respondent has any knowledge. If the respondent has no knowledge of a particular finding of fact and so states, the finding shall be deemed denied.

(2) State the circumstances or arguments that the respondent alleges constitute the grounds for any defense and the factual and legal basis for opposing the penalty or penalty fee, except that a respondent may raise an affirmative defense under § 160.410(b)(1) or § 160.620(a) at any time.

* * * * *

■ 6. Section 160.534 is amended by revising paragraphs (b)(1) and (d)(1) to read as follows:

### § 160.534 The hearing.

* * * * *

(b)(1) The respondent has the burden of going forward and the burden of persuasion with respect to any of the following:

(i) Affirmative defense under § 160.410 or defense under§ 160.620 of this part.

(ii) Challenge to the amount of a proposed penalty pursuant to § 160.404 through § 160.408, including any factors raised as mitigating factors, or to the amount of the penalty fee pursuant to § 160.624.

(iii) Claim that a proposed penalty should be reduced or waived pursuant to § 160.412.

(iv) Compliance with subpart D of part 164, as provided under § 164.414(b).

* * * * *

(d)(1) Subject to the 15-day rule under § 160.518(a) and the admissibility of evidence under § 160.540, either party may introduce, during its case in chief, items or information that arose or became known after the date of the issuance of the notice of proposed determination under § 160.420, the notice of determination under § 160.624, or the request for hearing under § 160.504, as applicable. Such items and information may not be admitted into evidence, if introduced—

(i) By the Secretary, unless they are material and relevant to the acts or omissions with respect to which the penalty is proposed in the notice of proposed determination under § 160.420 or in the notice of determination under § 160.624, including circumstances that may increase penalties or penalty fees; or

(ii) By the respondent, unless they are material and relevant to an admission, denial or explanation of a finding of fact in the notice of proposed determination under § 160.420 or in the notice of determination under § 160.624, or to a specific circumstance or argument expressly stated in the request for hearing under § 160.504, including circumstances that may reduce penalties or penalty fees.

* * * * *

### § 160.540 [Amended]

■ 7. In § 160.540, paragraph (g) is amended by removing the phrase'' notice of proposed determination under § 160.420 of this part '' and adding in its place the phrase ''notice of proposed determination under § 160.420 or in the Secretary's notice of determination under § 160.624.''

■ 8. Section 160.546 is amended by revising paragraph (b) to read as follows:

### § 160.546 ALJ's decision.

* * * * *

(b) The ALJ may affirm, increase, or reduce the penalties or penalty fees imposed by the Secretary.

* * * * *

### § 160.548 [Amended]

■ 9. Section 160.548 is amended by:

■ A. In paragraph (e), removing the phrase ''of this part'' and adding in its place the phrase ''or a defense under § 160.620(a)''.

■ B. In paragraph (g), removing the phrase ''any penalty determined by the

ALJ'' and adding in its place the phrase ''any penalty or penalty fee determined by the ALJ.''

**§ 160.550 [Amended]**

■ 10. In § 160.550, paragraphs (a) and (b) are amended by removing the phrase ''penalty'' and by adding in its place the phrase ''penalty or penalty fee'' each time it appears.

■ 11. Subpart F is added to part 160 to read as follows:

**Subpart F—Imposition of Penalty Fees**

Sec.
160.602 Applicability.
160.604 Definitions.
160.612 Basis for the assessment of a penalty fee.
160.614 Amount of the penalty fee for failure to comply with submission requirements or knowingly providing inaccurate or incomplete information.
160.616 Notice of penalty fee.
160.618 CHP's response to notice of penalty fee.
160.620 Defenses that may be raised in response to notice of penalty fee.
160.624 Notice of determination.
160.626 Right to a hearing.

## Subpart F—Imposition of Penalty Fees

**§ 160.602 Applicability.**

This subpart applies to the imposition of penalty fees by the Secretary under 42 U.S.C. 1320d–2.

**§ 160.604 Definitions.**

As used in this subpart, the following definitions apply:

*Controlling health plan (CHP)* means a health plan as defined at § 162.103 of this subchapter.

*Major medical policy* means an insurance policy that covers accident and sickness and provides outpatient, hospital, medical and surgical expense coverage.

**§ 160.612 Basis for the assessment of a penalty fee.**

The Secretary assesses a penalty fee against a CHP with major medical policies if the Secretary determines the CHP did either of the following:

(a) Failed to provide the documentation in accordance with § 162.926(a)(2) or (b)(2) of this subchapter.

(b) With respect to information submitted to the Secretary under to § 162.926 of this subchapter—made by statements, in documents, or otherwise—upon which either a CORE Seal (under § 162.926(a)(2) or (b)(2) of this subchapter) or the HIPAA Credential (under § 162.926(a)(2) or (b)(2) of this subchapter) is based, provides inaccurate or incomplete information—

(1) With actual knowledge of the inaccuracy or incompleteness of the information; or

(2) Acting in deliberate ignorance or reckless disregard of the accuracy or completeness of the information.

**§ 160.614 Amount of the penalty fee for failure to comply with submission requirements or knowingly providing inaccurate or incomplete information.**

(a) The penalty fee amounts are as follows:

(1) For the basis specified at § 160.612(a), $1 per covered life of the CHP per day until the requirements of § 162.926(a)(2) or (b)(2) of this subchapter, as applicable, have been met, not to exceed $20 per covered life.

(2) For the basis specified at § 160.612(b), $40 per covered life of the CHP.

(b) A CHP is not assessed more than $40 per covered life of the CHP under the basis specified at § 160.612.

**§ 160.616 Notice of penalty fee.**

The Secretary provides notice, by certified mail with return receipt requested, to a CHP that meets any of the bases for a penalty fee in § 160.612. A notice of penalty fee includes all of the following:

(a) The penalty fee amount.

(b) Reference to the regulatory basis, under § 160.612, for the penalty fee.

(c) A description of the findings of fact regarding the violations upon which the penalty fee is based.

(d) The reasons(s) why the violation(s) subject the CHP to a penalty fee.

**§ 160.618 CHP's response to notice of penalty fee.**

(a) In response to a notice of penalty fee under § 160.616, a CHP may submit to the Secretary evidence of any of the defenses described in § 160.620.

(b)(1) A CHP that chooses to assert a defense(s) under paragraph (a) of this section must do so in writing within 30 calendar days of receipt of the notice under § 160.616.

(2) For purposes of this section, the CHP's date of receipt of the notice of penalty fee is presumed to be 5 days after the date of the notice unless the CHP makes a reasonable showing to the contrary to the Secretary.

**§ 160.620 Defenses that may be raised in response to notice of penalty fee.**

The Secretary will consider no defenses aside from the following in response to a notice of penalty fee under § 160.616:

(a) The CHP is not subject to the requirements of § 162.926 of this subchapter.

(b) The CHP's failure to meet the requirements of § 162.926 of this subchapter was attributable to a ministerial and non-substantive error.

(c) The failure to meet the requirements of § 162.926 of this subchapter was beyond the CHP's control.

**§ 160.624 Notice of determination.**

The Secretary sends the CHP, by certified mail with return receipt requested, a notice of determination as to whether a penalty fee is assessed.

(a) A notice of determination to assess a penalty fee includes all of the following:

(1) A description of the statutory basis for the assessment of the penalty fee.

(2) The amount of the penalty fee.

(3) Reference to the regulatory basis, under § 160.612, for the assessment of the penalty fee.

(4) The findings of fact regarding the violations on which assessment of the penalty fee is based.

(5) Any defenses described in § 160.620 that were considered in determining whether to assess the penalty fee and the reason(s) why the defenses were rejected.

(6) Instructions for requesting a hearing under § 160.626.

(7) A statement that the failure to request a hearing within 90 days results in the imposition of the penalty fee specified in the notice of determination.

(b) A notice of determination to not assess a penalty fee includes the following:

(1) Any defenses described in § 160.620 that were considered in determining whether to assess the penalty fee and the reason(s) why the defenses were accepted; and

(2) Actions the CHP must take.

**§ 160.626 Right to a hearing.**

(a) Upon receipt of a notice of determination under § 160.624(a), a CHP may request a hearing before an ALJ by filing a request in accordance with § 160.504.

(b) If a CHP does not request a hearing within the time prescribed by § 160.504, the Secretary notifies the CHP that the penalty fee in the notice of determination is final and the means by which the CHP must pay the penalty fee.

## PART 162—ADMINISTRATIVE REQUIREMENTS

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

**Authority:** Secs. 1171 through 1180 of the Social Security Act (42 U.S.C. 1320d–1320d–9), as added by sec. 262 of Pub. L. 104–191, 110 Stat. 2021–2031, sec. 105 of Pub. L. 110–233, 122 Stat. 881–922, and sec. 264 of Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C.

1320d–2 (note), and secs. 1104 and 10109 of Pub. L. 111–148, 124 Stat. 146–154 and 915–917.

■ 13. Section 162.103 is amended by adding the definitions of ''Covered lives of a CHP'' and ''EFT'' in alphabetical order to read as follows:

**§ 162.103 Definitions.**

* * * * *

*Covered lives of a CHP* means individuals covered by or enrolled in major medical policies of a CHP and the SHP(s) of that CHP. Individuals may be described in such major medical policies by terms, including, but not limited to, the following:

(1) Individuals.
(2) Spouses.
(3) Dependents.
(4) Employees.
(5) Subscribers.
(6) Policyholders.
(7) Medicaid recipients.
(8) Medicare beneficiaries.
(9) Tricare beneficiaries.
(10) Veterans.
(11) Survivors.

* * * * *

*EFT* stands for electronic funds transfers.

* * * * *

■ 14. Section 162.926 is added to read as follows:

**§ 162.926 Certification of Compliance—submission requirements**

(a) *Submission requirements for a CHP that obtains an HPID before January 1, 2015.* For the health care electronic funds transfers (EFT) and remittance advice, eligibility for a health plan, and health care claim status transactions, a CHP that obtains an HPID before January 1, 2015 must, on or after January 1, 2015 and on or before December 31, 2015, provide the following to the Secretary in one submission:

(1) The number of covered lives of a CHP (as that term is defined in § 162.103 of this subpart) on the date that the documentation required under paragraph (a) of this section is submitted.

(2) Documentation that demonstrates the CHP has obtained a Council for Affordable Quality Healthcare (CAQH) Committee on Operating Rules for Information Exchange (CORE)—

(i) Certification Seal for Phase III CAQH CORE EFT & ERA Operating Rules. The CHP must not be under the CORE IT Exemption Policy at the time of submission with regard to the CORE Phase I, II, and III Seals; or

(ii) HIPAA Credential for the operating rules for the transactions listed in paragraph (a) of this section.

(b) *Submission requirements for a CHP that obtains an HPID on or after January 1, 2015 and on or before December 31, 2016.* A CHP that obtains an HPID on or after January 1, 2015 and on or before December 31, 2016, must, within 365 calendar days of obtaining an HPID, provide the following to the Secretary in one submission:

(1) The number of covered lives of a CHP (as that term is defined in § 162.103) on the date the documentation required under paragraph (b) of this section is submitted.

(2) The documentation required under paragraph (a)(2) of this section.

Dated: December 20, 2013.

**Marilyn Tavenner,**

*Administrator, Centers for Medicare & Medicaid Services.*

Dated: December 20, 2013.

**Kathleen Sebelius,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2013–31318 Filed 12–31–13; 8:45 am]

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**Federal Register**

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A new table will be published in the first issue of each month.

| Date of FR publication | 15 days after publication | 21 days after publication | 30 days after publication | 35 days after publication | 45 days after publication | 60 days after publication | 90 days after publication |
|---|---|---|---|---|---|---|---|
| January 2 | Jan 17 | Jan 23 | Feb 3 | Feb 6 | Feb 18 | Mar 3 | Apr 2 |
| January 3 | Jan 21 | Jan 24 | Feb 3 | Feb 7 | Feb 18 | Mar 4 | Apr 3 |
| January 6 | Jan 21 | Jan 27 | Feb 5 | Feb 10 | Feb 20 | Mar 7 | Apr 7 |
| January 7 | Jan 22 | Jan 28 | Feb 6 | Feb 11 | Feb 21 | Mar 10 | Apr 7 |
| January 8 | Jan 23 | Jan 29 | Feb 7 | Feb 12 | Feb 24 | Mar 10 | Apr 8 |
| January 9 | Jan 24 | Jan 30 | Feb 10 | Feb 13 | Feb 24 | Mar 10 | Apr 9 |
| January 10 | Jan 27 | Jan 31 | Feb 10 | Feb 14 | Feb 24 | Mar 11 | Apr 10 |
| January 13 | Jan 28 | Feb 3 | Feb 12 | Feb 18 | Feb 27 | Mar 14 | Apr 14 |
| January 14 | Jan 29 | Feb 4 | Feb 13 | Feb 18 | Feb 28 | Mar 17 | Apr 14 |
| January 15 | Jan 30 | Feb 5 | Feb 14 | Feb 19 | Mar 3 | Mar 17 | Apr 15 |
| January 16 | Jan 31 | Feb 6 | Feb 18 | Feb 20 | Mar 3 | Mar 17 | Apr 16 |
| January 17 | Feb 3 | Feb 7 | Feb 18 | Feb 21 | Mar 3 | Mar 18 | Apr 17 |
| January 21 | Feb 5 | Feb 11 | Feb 20 | Feb 25 | Mar 7 | Mar 24 | Apr 21 |
| January 22 | Feb 6 | Feb 12 | Feb 21 | Feb 26 | Mar 10 | Mar 24 | Apr 22 |
| January 23 | Feb 7 | Feb 13 | Feb 24 | Feb 27 | Mar 10 | Mar 24 | Apr 23 |
| January 24 | Feb 10 | Feb 14 | Feb 24 | Feb 28 | Mar 10 | Mar 25 | Apr 24 |
| January 27 | Feb 11 | Feb 18 | Feb 26 | Mar 3 | Mar 13 | Mar 28 | Apr 28 |
| January 28 | Feb 12 | Feb 18 | Feb 27 | Mar 4 | Mar 14 | Mar 31 | Apr 28 |
| January 29 | Feb 13 | Feb 19 | Feb 28 | Mar 5 | Mar 17 | Mar 31 | Apr 29 |
| January 30 | Feb 14 | Feb 20 | Mar 3 | Mar 6 | Mar 17 | Mar 31 | Apr 30 |
| January 31 | Feb 18 | Feb 21 | Mar 3 | Mar 7 | Mar 17 | Apr 1 | May 1 |